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**TRIALS OF A COMPREHENSIVE PEACE
AGREEMENT: AN INVESTIGATION INTO THE
DILEMMAS FACED BY NORTH AND SOUTH SUDAN**

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Trials of a comprehensive peace agreement: an investigation into the dilemmas
faced by North and South Sudan

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Abstract

Key words:

Peace agreements, Conflict resolution, conflict transformation and self-determination

The study focuses on the north and south Sudan conflict and seeks to investigate the continuing threats to a return to war between the two parties since the 2005 Sudan Comprehensive Peace Agreement (CPA) and after the independence of South Sudan. The study critically analyses the CPA and investigates the dilemmas faced by the two Sudans and examines the conflict resolution/transformation process. This thesis relies on data generated from key informant interviews and archival data as primary sources; complemented by secondary sources of data obtained from books, journals, research documents and relevant literature on the area.

The study analyses the background of the north-south Sudan conflict, analysis of the CPA, implications of the negotiation, mediation and the implementation processes of the CPA and the referendum, post-referendum, the post-independence issues and the conflict resolution efforts. These are discussed in order to find the reasons as to why the CPA emerged as it did and its effectiveness. The study uses the concept of the conflict resolution/transformation approaches and their methods (mediation, negotiation and peacebuilding), the Galtung ABC theory and the Liberal peace theory as tools to guide the study in order to measure the data collected from the field.

The results of the analysis suggest that history, the mediation and the negotiation process viewed to have been narrow and non-inclusive, the content of the CPA itself, the problems of the previous processes before the referendum, the referendum of Southern Sudan and the Abyei referendum failure provided the basis of the origins of the post-referendum and the post-independence issues. These issues are responsible for the dilemmas faced by the two states and eventually the tensions and the threats to a return to war which exist up to the present. All these issues lie at the heart of the difficulties of the conflict resolution process and the relationship problem of North and South Sudan. However, the 2005 CPA had partial success in that it achieved partial negative peace which in turn led to the separation of north and south Sudan.

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List of contents

Abstract.....	i
Acknowledgements.....	ii
List of contents.....	iii
List of Figures	ix
List of Tables	x
List of abbreviations	xi
Chapter 1	1
1.0 Introduction and background.....	1
1. 1 Introduction	1
1.2 Research location.....	1
1.3. Background of the study.....	2
1.4 The genesis of the study	5
1.5 Aim and objectives of the research	6
1.5.1 Objectives of the study	6
1.6 Statement of the problem	7
1.7. Key research questions	8
1.7.1. Central research question.....	8
1.7.2. Secondary research questions	8
1.8 Literature review.....	9
1.9 The theoretical framework	10
1.9.1 Galtung's ABC theory	10
1.9.2 The Liberal peace theory.....	12
1.10 Conceptual framework	14
1.11 Research design and methodology.....	14
1.11.1 Sampling strategy and the site of the study	16
1.11.2 Sampling frame	18

1.11.3 Recruitment (Gatekeeper and respondents).....	18
1.11.4. Data sources and collection methods.....	19
1.11.5 Data analysis and interpretation.....	22
1.11.6 Reliability and validity	23
1.12 Limitations of the study	24
1.13 Ethical considerations	25
1.14 Research contribution.....	27
1.15 Structure of the thesis	29
Chapter 2	31
2.0 Literature review	31
2.1 Introduction	31
2.2 Conflict resolution conceptualised	32
2.2.1 Conflict resolution approaches	37
2.2.3 Indigenous/traditional approaches (the African scenario).....	44
2.2.4 Negotiation in conflict resolution	49
2.2.5 Mediation in conflict resolution.....	54
2.2.6 Peacebuilding in conflict resolution.....	60
2.3 Peace agreements conceptualised	69
2.4 Self-determination and the options of power sharing and separation conceptualised.....	78
2.4.1 Power sharing and separation/partition.....	81
2.5 Conclusion.....	87
Chapter 3	91
3.0 Historical perspective	91
3.1 Introduction	91
3.2 Historical/colonial legacy	91
3.2.1 The early States and the coming of the Arabs to Sudan.....	92
3.2.2 The Turkiya (1821-1885)	94

3.2.3 The Mahdiya (1885-1898).....	95
3.2.4 The Anglo-Egyptian Condominium -1898-1956.....	96
3.3 Post-independence regimes (Military and parliamentary).....	101
3.3.1 The first Parliamentary regime, 1954-1958	102
3.3.2 The military regime -1958-1964	106
3.3.3 The second parliamentary regime (1964 -1969).....	108
3.3.4 The second Military regime (1969-1985).....	112
3.3.5 The third Parliamentary regime.....	114
3.3.6 The third Military regime (The national Islamic front and al Bashir) 1989 to present	118
3.4 The international, Regional and Sub regional factors.....	120
3.5 Experiences from the previous efforts to settle/resolve the conflict.....	125
3.5.1 The Experiences from the first civil war.....	126
3.5.2. Experiences from the second civil war	128
3.6 Conclusion.....	140
Chapter 4.....	142
4.0 Analysis of the 2005 Sudan Comprehensive peace agreement in the context of conflict resolution	142
4.1 Introduction	142
4.2 Mediation of the CPA.....	143
4.2.1 Origins and reasons for the mediation	145
4.2.2 IGAD mediation frameworks	148
4.3 Negotiation of the CPA	151
4.3.1 Actors in the negotiations.....	152
4.3.2 Conduct of the negotiations	153
4.3.3 The outcomes of the negotiations.....	158
4.4 The perspective of the CPA protocols.....	160
4.4.1 The Machakos protocol	160

4.4.2 The security arrangements protocol.....	165
4.4.3 The wealth sharing protocol	170
4.4.4 The power sharing protocol.....	175
4.4.5 The Abyei protocol	179
4.4.6 Protocol on the resolution of conflict in Southern Kordofan and the Blue Nile states	183
4.4.7 Permanent ceasefire and security arrangement implementation modalities and appendices and Implementation modalities and global implementation Matrix and appendices (Annexures I & II)	186
4.5 Peacebuilding.....	189
4.6 Conclusion.....	190
Chapter 5.....	195
5.0 The implications of the mediation, the negotiation and the implementation processes of the CPA	195
5.1. Introduction	195
5.2 The untouched issues of the CPA.....	196
5.2.1 Reconciliation and justice	197
5.2.2 Human security	200
5.2.3 Separation	201
5.2.4 Sharing of resources.....	202
5.2.5 Darfur	204
5.2.6 Civilian disarmament and arms control	205
5.3 The unresolved issues	206
5.3.1 Definition of Northern and Southern Sudan	207
5.3.2 Religion and the question of national identity	213
5.3.3 The Southern Kordofan and the Blue Nile states resolution	215
5.4 The selective implementation of the CPA.....	219
5.4.1 The Abyei Resolution Protocol.....	220
5.4.2 The power sharing protocol issues	223

5.4.3 The wealth sharing protocol	233
5.5 Conclusion.....	236
Chapter 6	238
6.0 The referendum, post-referendum, the post-independence issues and the conflict resolution efforts	238
6.1 Introduction	238
6.2 The referendum	239
6.3 The post-referendum issues	242
6.3.1 Nationality and citizenship.....	243
6.3.2 Economic issues (debt, assets, oil and currency).....	245
6.3.3 Security	247
6.3.4 International treaties and legal issues	249
6.4 The post-independence issues.....	250
6.4.1 Oil and the financial arrangements.....	251
6.4.2 Debts and debts relief.....	253
6.4.3 The North-South boundary dispute	255
6.4.4 The Blue Nile state	260
6.5 Mediation and the negotiation of the post-referendum and the post-independence issues..	263
6.5.1 The post-referendum and the post-Independence issues mediation and negotiation problems	264
6.5.2 The IGAD and the AUHIP conflict resolution frameworks	269
6.6 Conclusion.....	272
Chapter 7	275
7.0 Conclusion	275
7.1 Introduction	275
7.2 Summary of the findings in relation to the research questions	276
7.2.1 The causes of the conflict	277
7.2.2 The mediation and the negotiation of the CPA	278

7.2.3 The implications of the mediation/negotiation and the implementation processes of the CPA	280
7.2.4 The referendum, post-referendum and the post-independence issues and the frameworks of conflict resolution	281
7.3 Theoretical consequences	283
7.4 Comparative considerations	286
7.5 Further research	287
Bibliography	289
Appendices	306
Appendix 1	306
Participant Information Sheet	306
Appendix 2	308
Consent form	308
Appendix 3	309
The interview guide	309
Appendix 4	316
List of participants	316
Appendix 5	317
The 1994 IGAD Declaration of Principles (DOPs)	317
Appendix 6	319
Rebel leaders in South Sudan since April 2010	322

List of Figures

Figure 1.1: Map of Sudan.....	2
Figure 1.2: Map of Sudan and South Sudan.....	2
Figure 1.3: Galtung's ABC theory triangle.....	10
Figure 2.1: Galtung's model of violence.....	33
Figure 2.2: Galtung's violence -peace nexus	34
Figure 2.3: Responses to conflict through the maze of terminology.....	36
Figure 2.4: Utstein Peacebuilding palette.....	64
Figure 3.1: Map of the Sudan January 1 1956.....	98
Figure 4.1: Map of the location of Abyei.....	180
Figure 5.1: The topographical map the North and South Sudan boundary in the early 1950s.....	209
Figure 5.2: Map of Sudan and South Sudan contested areas and fighting since the beginning of 2012.....	257
Figure 5.3: Map of the locations of Southern Kordofan and Blue Nile States	
Figure 6.1: Map of Panthou/Heglig transfer from Unity State in South Sudan to Western Upper Nile state in North Sudan.....	258

List of Tables

Table 1.1: Participants in the study

Table 2.1: Factors of inclusion and exclusion

Table 2.2: Track I, II & III actors and strategies

Table 5.1: Sudan boundary changes 1905-1960

Table 6.1: Referendum results

List of abbreviations

AARA: Abyei Area Referendum Act

ABC: Abyei Boundaries Commission

AEC: Assessment and Evaluation Commission AU –African Union

AUHIP: African Union High Level Implementation Panel

CDO: Closed District Ordinance

CNPC: Chinese National Petroleum Corporation

CJMT: Ceasefire Joint Military Committee

CPA: Comprehensive Peace Agreement

CT: Critical theory

DDR: Disarmament, Demobilisation and Reintegration

DUP: Democratic Unionist Party

DOPs: Declaration of Principles

DRC: Democratic Republic of Congo

EPLF: Eritrean People's Liberation Front

EPRDF: Ethiopian People's Revolutionary Democratic Front

EU: European Union

GONU: Government of National Unity

GOS: Government of Sudan

GOSS: Government of South Sudan

HIV/AIDS: Human Immuno Deficiency Virus/Acquired Immune Deficiency Syndrome

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economics, Social and Cultural Rights

ICF: Islamic Charter Front

IDPs: Internally Displaced Persons

IGAD: Inter -Governmental Authority on Development

IGADD: Intergovernmental Authority on Drought and Desertification

IGOs: International Governmental Organisations

IOs: International Organisations

IPF: IGAD Partners Forum

LRA: Lords' Resistance Army

NCC: National Constitutional Commission

NASC: National Alliance for the Salvation of the Country

NATO: North Atlantic Treaty Organisation

NCP: National Congress Party

NDA: National Democratic Alliance

NGOs: Non-Governmental Organisations

NPC: National Petroleum Commission

NUP: National Unionist Party

OAU: Organisation of African Unity

OAGs: Other Armed Groups

OAS: Organisation of American States

PCA: Permanent Court of Arbitration

PCM: Provisional Council of Ministers

PDF: Popular Defence Forces

PDP: People's Democratic Party

PSC: Public Service Commission

RCC: Revolutionary Command Council

RECs: Regional Economic Communities

SAF: Sudan Armed Forces

SCP: Sudan Communist Party

SNAF: Sudan's National Armed Forces SOAS---School of Oriental and African Studies

SPLM/A: Sudan People's Liberation Movement/Army
SPLM-N: Sudan People's Liberation Movement/Army-North
SPLM/A-M: Sudan People's Liberation Movement/Army-Mainstream
SPS: Sudan Political Service
SSDF: South Sudan Defence Force
SSLM: South Sudan Liberation Movement
SSRA: South Sudan Referendum Act
SSRC: South Sudan Referendum Commission
Sudan Revolutionary Front
STI: Sexually Transmitted Infections
SRF: Sudan Revolutionary Front
TBC: Technical Border Commission
TMC: Transitional Military Council
TPLF: Tigrean Peoples Liberation Front
UPCD: Uppsala Conflict Data
UK: United Kingdom
UMA: Arab Magrib League
UNMIS: United Nations Mission in Sudan
UNISFA: United Nations Interim Security Force for Abyei
UNSC: United Nations Security Council
US: United States of America
USIP: United States Institute of Peace
WWI: World War 1
WWII: World War 2

Chapter 1

1.0 Introduction and background

1.1 Introduction

The study focuses on the Sudan and South Sudan conflict. It seeks to investigate the continuing tensions and threats to a return to war between the two regions/parties since the 2005 Sudan Comprehensive Peace Agreement (CPA) and after the independence of South Sudan.

Such a status quo is a threat to peace and security in the two states, the neighbouring countries as part of a region and the world as a whole. The study in this regard wishes to critically analyse the CPA and explore the dilemmas that were/are being faced by the now separate two Sudans with a view to eventually reflect on the mitigation, management and the resolution of the conflict.

1.2 Research location

The location of the study is the old Sudan and the locations of the present day two Sudans. Sudan was bordered by Egypt, Eritrea, Ethiopia, Kenya, the Central African Republic, Chad, Libya and an 853 km (530 miles) coastline bordering the Red Sea. It had an area of 1,886,068 km² (728,215 sq mi) and was located between latitudes 8° and 23°N (Ibbotson and Lovell-Hoare, 2012:2&3). The locations of the two Sudans essentially remain in the same area however with boundary changes whereby Sudan is now bordered by Egypt, Libya, Eritrea, Ethiopia, Central African Republic (CAR) and Chad while South Sudan is bordered by CAR, Democratic Republic of Congo (DRC), Ethiopia, Kenya and Uganda (**See maps 1.1 &1.2**).

Figures: 1.1&1.2. Map of old Sudan and map of North and South Sudan



Source: Google maps: Available at:<https://www.google.uk> (Accessed 15 May 2014)

1.3. Background of the study

The study focuses on the peace process, which was undertaken to manage the northern-southern Sudan conflict (and not other internal conflicts such as Darfur and others in the country) with a view to find a possible resolve to the conflict. The study also focuses on the relations of the two states after the separation of southern Sudan. The conflict is believed to have been one of the legacies of the early history of the state which in turn had created the north-south divide.

According to Deng (1995:63-66), the causes of the conflict include religious and cultural persecutions, poor economic conditions, historical differences between northern and southern Sudan and misguided and discriminative social and economic programmes mostly against the south. These aspects generally made the people of northern and southern Sudan to be ethnically divided. Ethnicity is perceived as group identity, based on common cultural affiliation and a belief in a shared ancestry and a common future (Cheeseman et al., 2015:95). The perception in this regard is that the southerners started considering the option of separation as part of their right to self-determination. Self-determination is conceptualized later in this study. These factors generally led to the first and the second north-south Sudan civil wars from

1955 to 1972 and from 1983 to 2005¹. The core concerns by the southerners during the two civil wars and what the CPA was meant to address were; the question of national identity, the socio-economic and political gap between the centre and periphery and the constant threat of Arabisation and Islamisation by the Northern elite (Raftopoulos and Alexander, 2006:25 &26). These aspects enhanced a division which in turn formed battle lines in the civil wars that raged on and off for almost half a century and proxy conflicts with Uganda, Chad, Ethiopia, Eritrea and CAR. The divide referred the north as Arab and Moslem and the south as African and Christian or with traditional African beliefs.

The civil wars which took place from 1955 to 1972 and 1983 to 2005 and which still linger in some cases had/have devastating implications on Sudan as a country, now the two countries of Sudan and South Sudan and the horn of Africa as a region. It was through these implications that initiatives were/are taken to manage and resolve the conflict as part of the peace process. During the course of the peace process, the 1972 Addis Ababa agreement had brought negative peace for about eleven years while the CPA partially ended the conflict although there still are significant problems (Natsios, 2012:163).

In a related development in accordance with the CPA arrangements, South Sudan separated through a referendum from Sudan and became independent on 9 July 2011 as part of the right to self-determination outcome (Copnall, 2014:4) However, Sudan before as one state and now as two states after the separation of southern Sudan faced/face a number of dilemmas including the question of the right to self-determination.

Self-determination has been and is a contested concept internationally. The claim of the right to self-determination by the Sudan People's Liberation Movement/Army (SPLM/A), an organization whose position seemed not really clear on it and its inclusion in the CPA during the negotiations with the north which also had problems

¹ A 1955 mutiny of Southern soldiers in the Equatorial Corps at Torit is usually considered the start of the first civil war. The cause of the mutiny was dissatisfaction with the decolonization process, in which Southerners believed they were losing out as it was widely expected that Northerners would install themselves as rulers of the South. The mutiny of the 105th Battalion at Bor Garrison on 16 May 1983, due to governments mismanagement of the southerners in the military led by Kerubino Bol, followed later by the abrogation of the 1972 Addis Ababa agreement whereby Islamic Sharia law was introduced in the South and the region being divide into three regions are seen mostly to have triggered the second civil war.

with it, presented a complex turn in the context of politics and International Relations (IR)².

The United Nations and the Organisation of African Unity (OAU) now African Union (AU) through their United Nations General Assembly Declaration on Decolonisation (1960) and the African Charter on Human and Peoples' Rights (1981) limited self-determination to ending colonial rule and assumed that civic territorial nationalism would underpin allegiance to the new states (Lesch, 1998:13). The separation of southern Sudan from Sudan in this regard can be viewed to have taken place against a background of limitations by these important organisations. Governments and the international community have often had apprehensions with entities with aspirations to separate from their states for fear of more conflicts through a contagion effect.

The limitation in the context of the UN, is grounded from Article 1(2) of the UN Charter which states that the purpose of the UN Charter is: "To develop friendly relations among nations based on the respect for the principle of equal rights and self-determination of peoples', and to take other appropriate measures to strengthen universal peace and includes the protection of the territoriality issue to avoid unnecessary conflicts"³. The territoriality issue was included because it was deemed that if the situation was left open, it would inevitably lead to more conflicts and independence movements in many states.

In the context of the OAU now AU, it was viewed that many of the borders were widely recognised as arbitrary, as they had separated families and tribes and joined others. This was perceived to have created potential for secession/partition. For these reasons, African leaders adopted Resolution 16 at the first ordinary summit of the OAU in July 1964 whereby all the member states declared and pledged to respect the borders that existed when they had achieved national independence (Thomson, 2010:47). The reasoning behind the resolution was to avoid opening a

² The Southerners in the first civil war fought for the South's autonomy, in the second the SPLM/A claimed an ideological affiliation to free the entire Sudan through a concept it called the 'new Sudan, but later after the split of SPLM/A Nasri from the SPLM/A Mainstream, competition from the Nasir faction strengthened the separatists' position within the SPLM/A. John Garang found himself in a contradictory position of needing to champion the self-determination option of separation in order to compete with the Nasir faction for support among Southerners, while simultaneously denouncing separatism in order to maintain co-operation with the National Democratic Alliance (NDA). Likewise North Sudan initially totally rejected the demand of the right to self-determination for the South but later in the process began to accept it.

³ United Nations (1945), *Charter of the United Nations*, 1 UNTS XVI, Available at: <http://www.unwebsite.com/charter> [accessed 20 November 2013].

Pandora's Box of efforts by the continent's ethnic minorities to redraw Africa's borders which they feared would be highly destabilising.

This position suggests that the UN and OAU/AU condemns separation/secession attempts on the grounds that they can encourage other disaffected communities in other states to break away. Interestingly, the separation of north and south Sudan was internationally recognised despite the presence of the limitations. This means that even if it was accepted, it was not expected and as such it was a sui generis occurrence as a general overview of studies of peace processes show that power sharing has been a prominent aspect of most recent African peace settlements. This translates that separation solutions in most peace processes are considered unthinkable (Katanga in the Democratic Republic of the Cong (DRC), Biafra in Nigeria and Somaliland in Somalia, among others are examples) (Mehler, 2008:17).

The question is why are there still tensions and threats to a return to war between Sudan and South Sudan even after the separation of the two countries as provided for in the CPA, which was a legitimate agreement providing for the right to self-determination through a referendum. One reason is that the agreement may not have addressed some challenges faced by the parties to the conflict. Copnall (2015:1) in supporting this position states that Sudan and South Sudan are joined by more than a name and their people will have no choice but to write a joint narrative for many years to come. There are many more areas in which the parties to the conflict before the separation and even after the separation faced/face dilemmas. This situation makes the case to be unique. It is this uniqueness that sets the stage for the study to be undertaken.

1.4 The genesis of the study

My interest in this study area stems from my background in which I studied global security at a Masters' Degree level and later as a University lecturer in Peace studies at Mzuzu University in Malawi. Through these activities, I became very familiar with conflict resolution. I was further encouraged in the discipline through workshops organized by an American organization called African Centre for Strategic Studies which partners with my University.

During the workshops, African conflicts were given a very detailed coverage and time and again group work involved trying to discuss possible solutions to such conflicts and sometimes analyzing peace processes of countries whose conflicts had been resolved. Through these interactions, I became familiar with the conflicts in the horn of Africa (Sudan, Somalia, Ethiopia and Eritrea) at the time and the case studies of the peace agreements in the peace processes of South Africa, Angola, Namibia, Mozambique, Sudan and other countries in the world.

I however came to learn during the workshops that the Sudan case was unique in the sense that it took a very long time, had complex causes and goals and a dramatic end although problems still linger in the states that came to be created after a peace agreement. My concern has been the absence of complete peace between Sudan and South Sudan which had and has implications on the security of the country/countries, the region and Africa as a continent.

I also noted that the agreement came to be known as a Comprehensive Peace Agreement (CPA) and not just a peace agreement and as such questions like ‘why was it called comprehensive, how was it arrived at and what had determined it came to my mind. These factors attracted my interest to undertake this study with a view to have a clear understanding on these aspects. My view has been that through the study, I can be able to enhance my academic status and at the same time be able to contribute to knowledge on the literature of ending civil wars/conflict through the analysis of the CPA and the dilemmas which were/are faced by Sudan initially and now the two Sudans. It is then against this background that my PhD journey was conceived.

1.5 Aim and objectives of the research

The study seeks to investigate why there have been tensions and threats to a return to war between Sudan and South Sudan since the CPA and even after the independence of South Sudan as its aim.

1.5.1 Objectives of the study

The objectives of the study with focus to support the aim are as follows;

- To establish the factors that influenced the conflict parties in north and south Sudan to engage in negotiation to arrive at the 2005 Comprehensive Peace Agreement.

- To investigate how the mediation and negotiation of the 2005 CPA of Sudan were conducted to end the conflict with a view to resolve it.
- To investigate reasons as to why the right to self-determination for southern Sudan was included in the CPA despite its being viewed with ambivalence in the international community.
- To find out why some issues remained unresolved and others untouched during the mediation/negotiation of the CPA.
- To explore if the 2005 Sudan CPA was indeed comprehensive and why some of its protocols were problematic in the context of peace for the conflicting parties.
- To establish how the agreement was implemented, supervised and monitored, why some of the protocols remained unimplemented up until the end of the interim period of the CPA and the implications thereafter.
- To investigate the issues which emerged after the referendum and the independence of South Sudan and why they have been difficult to resolve?

1.6 Statement of the problem

The mediation/negotiation process between the National Congress Party (NCP) representing the Government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) representing southern Sudan mediated by the Inter-Governmental Authority on Development (IGAD) supported by the TROIKA countries resulted in the 2005 CPA which included six protocols and two annexures⁴. The hallmark of the agreement was the right to self-determination which was contained in the Machakos protocol which gave the southern Sudan the right to self-determination whereby it could opt either to separate from Sudan or remain united with it but emphasised to the parties to make unity attractive especially on the part of southern Sudan (Young, 2012:93).

⁴ Inter-governmental Authority on Development (IGAD) is a regional organisation which initially comprised Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda and now South Sudan after it separated from Sudan and became independent. It was created in 1996 to supersede the Inter-governmental Authority on Drought and Development (IGADD) which was founded in 1986. Initially was concerned with issues of drought and development but due to circumstances was taken on board to mediate the North-South Sudan conflict. The TROIKA countries include (United States of America (USA, United Kingdom, Norway and Italy) which were supporting the IGAD financially and logistically during the mediation of the North-South Sudan conflict (Young, 2012:83).

Likewise the agreement required to be implemented during the interim period. Brosche (2007:8) states that the milestones set (border demarcation, census and elections) to be met in the course of the implementation brought about new problems but despite the problems, the referendum took place and the south overwhelmingly voted to separate. This scenario implies that the separation was de jure as it was legally and internationally recognised.

The South Sudan eventually attained independence on 9 July 2011. Despite having reached an agreement to manage the conflict and eventually try to resolve it through the activities lined up in it, after the south became a separate state through the legally sanctioned referendum, tensions and threats to a return to war still exist between the two states. The Abyei and the Heglig attacks by the two parties among several issues are cases in point. According to Copnall (2014:229), north Sudan before the and after the referendum did invade the Abyei area despite being a contested area and jointly administered by the two area/states. The scenario during the second incident it is noted was only settled after the intervention of the UN by deploying a peacekeeping force. Likewise South Sudan after its independence invaded the North and occupied Heglig (Panthou) area and only withdrew after international pressure.

These incidents imply that the two areas initially as one state and later as two states faced and are facing dilemmas and significant problems which require resolving.

1.7. Key research questions

Drawing upon the background of the study, this thesis is based on the answering of the following research questions:

1.7.1. Central research question

Why has there been continuing tensions and threats to a return to war between Sudan and South Sudan since the CPA and even after the independence of the later?

1.7.2. Secondary research questions

The secondary research questions are as follows;

- What were the causes of the north-south Sudan conflict?

- What factors influenced the conflict parties in north and south Sudan to engage in negotiation to arrive at the 2005 Comprehensive Peace Agreement?
- How were the mediation and the negotiation for the 2005 CPA of Sudan conducted to resolve the conflict and achieve peace?
- Why was the right to self-determination for South Sudan included as part of one of the CPA protocols despite its being viewed with ambivalence in the international community?
- Why did some issues remain unresolved during the mediated negotiation of the CPA?
- Why was the 2005 Sudan CPA and some of its protocols problematic in the context of peace for the conflicting parties?
- Why did some of the protocols remain unimplemented up until the end of the interim period of the CPA and what were the implications of this after southern Sudan opted to separate from the north through a referendum?
- What issues had emerged after the referendum and the independence of South Sudan and why they have been difficult to resolve?

1.8 Literature review

A Literature review was undertaken in the study to complement the fieldwork efforts. Literature review is the comprehensive study and interpretation of literature that relates to a particular topic (Aveyard, 2014:2). In order to satisfy this position, an intensive literature review was carried out with the purpose to precisely cover literature related to my research topic and to identify the gap/s if any within the literature that this study might contribute.

Literature review in this regard was also used to identify potential sources of secondary data, which included books, journals articles, periodicals, masters' theses and doctoral dissertations. In this respect I covered three aspects of literature (highlighted in chapter 2) literature related to theoretical concepts of conflict resolution approaches and methods, literature related to peace agreements and literature related to self-determination and its options of power sharing (unity) and

separation with focus on the CPA and the relationship of North and South Sudan after the separation of the South Sudan.

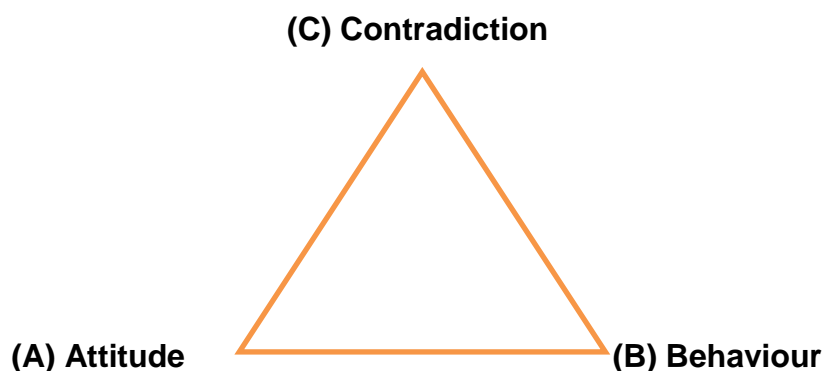
1.9 The theoretical framework

The study is guided by the Galtung's ABC conflict triangle theory and the Liberal peace theory as conflict resolution theories to represent conflict resolution as the dominant position of the study.

1.9.1 Galtung's ABC theory

Galtung's ABC conflict triangle theory is an influential model of conflict that encompasses both symmetric and asymmetric conflicts (1996:72). The theory perceives conflict as a triangle with contradiction (C), attitude (A) and behaviour (B) at its vertices (Galtung, 1996:72). **(See figure 1.3).**

Figure 1.3 Galtung's ABC conflict triangle



Source: Galtung, J. (1996). *Peace by peaceful means: peace and conflict, development and civilization*. Oslo: International Peace Research Institute (PRIO).

In the theory, contradiction refers to the underlying conflict situation which includes the actual or perceived incompatibility of goals between the conflict parties. In a symmetric conflict, the contradiction is defined by the parties, their interests and the clash of interests between them while in an asymmetric conflict; contradiction is defined by the parties, their relationship and the conflict of interests inherent in the relationship.

Attitude includes the parties' perceptions and misperceptions of each other and of themselves. These can be positive or negative, but in violent conflicts parties tend to

develop demeaning stereotypes of the other and attitudes are often influenced by emotions such as fear, anger, bitterness and hatred (Ramsbotham et al., 2011:8). This suggests that attitude covers emotive (feeling), cognitive (belief) and conative (desire, will) elements.

Behaviour as the third element on the triangle involves aspects of cooperation or coercion and gestures signifying conciliation or hostility. According to Fisher et al., (2000:25) violent conflict behaviour is characterized by threats, coercion and destructive attacks. This position implies that behaviour in this case is a critical factor in the context of cooperation or hostility.

According to Galtung (1996:73) all the three components have to be present together in a full conflict and that a conflict structure without conflictual attitudes or behaviour is a latent (or structural) one. This position suggests that conflict is a dynamic process in which structure, attitudes and behaviour constantly change and influence one another. As dynamics develop, conflict is manifested as the parties' interests clash or the relationship they are in become oppressive.

It is noted in this context that each of the features triggering a conflict (attitudes, behaviours and contradictions) can also serve as possible gateways to influence the conflict peacefully and work towards a resolution. Similarly it can be argued that each of these elements influence one another. While attitudes influence both behaviours and contradictions, the opposite can occur, with behaviours and contradictions affecting attitudes, and also each other. Because of the interconnectedness among these three aspects of conflict, it is important to address each one in order to reach a sustainable solution. Addressing attitudes is important as it helps people to become aware of and better understand the contradictions. The more profoundly a contradiction is understood, the easier it is to come up with creative solutions to overcome it. Addressing both attitudes and contradictions, in turn, influences changing behaviours and behaviours also affect attitudes.

In order then for the conflict to be resolved, a set of dynamic changes need to take place that can mean de-escalation of the conflict behaviour, a change in attitudes and a transformation of the relationships or clashing interests which are at the centre of the conflict structure (contradictions) (Ramsbotham, et al., 2011:11). Such a

dynamic can only be attained through the use of the conflict resolution methods like negotiation, mediation and peacebuilding among others. This translates that if a conflict has to be resolved; behaviour has to no longer be violent, attitudes no longer to be hostile and the structure of the conflict to be changed.

1.9.2 The Liberal peace theory

The liberal peace theory in this study is used alongside the Galtung's ABC conflict triangle theory. Liberal peacebuilding is the dominant form of contemporary peacebuilding that places emphasis on establishing liberal values such as the protection of individual rights, rule of law, a free market economy, democracy as well as building a liberal state in war-torn societies (Francis, 2012:42). MacGinty (2010:391) likewise perceives liberal peace as the dominant form of peacemaking and peacebuilding favoured by leading states, international organizations and international financial institutions.

Liberal peace theory generally derives from the concept of liberalism in international relations and includes democracy, economic interdependence, and international institutions and international law as its most important pillars⁵. It should then be noted that Liberal peace theory in this case is not actually a theory but generally strands of practice from an amalgamation of various disciplines which include politics, development, economics and international law used as a basis to advance the peace agenda in states emerging from conflicts and even to prevent emergence of conflicts in stable states. The strands of these disciplines include; democracy, human rights, rule of law and neo-liberal economics among others.

Individuals in a democracy are happy with the absence of war and as such would never go to war with each other, economic interdependence creates favourable conditions for international cooperation among governments and peoples through the use of market economies which thrive on free trade and promotes peace other than conflict while international organizations and international law are important for the regulation of international interdependence and thus ensures good relationships

⁵ Liberalism suggests that economic interdependence creates favourable conditions for international cooperation among governments and peoples; since their destiny is common, as it is defined from several mutual economic and political problems, states – as rational entities – realize that international cooperation is necessary for the management of their common fate.

among states. Paris (2004:41) as a notion or what is termed as Liberal peace thesis states that democratic forms of government are more peaceful both in their internal politics and in their international relations than other forms of government.

In this context, the liberal peace thesis views political and economic liberalization as democratic forms of effective antidotes to violent conflicts. Thus, promotion of human rights, democracy, elections, constitutionalism, rule of law, property rights, good governance, and neo-liberal economics have become part and parcel of the international peacebuilding strategy to achieve a liberal peace status (Barnnett et al., 2007:35).

Paris (1994:42) states that the international dimension of the liberal peace thesis in relation to the relationship between liberalism and interstate conflict has a general consensus that market democracies rarely go to war against one another and likewise several analyses of civil violence similarly conclude that market democracies are less prone to intrastate disturbances.

The perception against this background is that political and economic liberalisation would appear to be a sensible and promising strategy for consolidating domestic peace in states that are just emerging from civil wars. Through the activities of peacebuilding with focus on the liberal peace model, countries emerging from civil wars can attain the same status. Sriram (2000:21) in this regard states that, the presumption is usually that the ideal outcome of peacebuilding as a conflict resolution method after armed conflict is a liberal capitalist state.

This position suggests that whereas Liberal peace focuses on building a liberal state through democratisation, free market economy and international law and institutions, peacebuilding with its activities which include security, political, economic and social activities and reconciliation and justice parameters as agendas for peace assists states emerging from civil wars to achieve the Libel peace model status.

Peacebuilding in this regard is generically understood as external interventions that are intended to reduce the risk of states to erupt into or return to war⁶. The approach

⁶ UN, Agenda for Peace, Report of the Secretary-General, para. 21. Available at http://www.un.org/peace/reports/peace_operations/. Likewise peacebuilding is now viewed as a concept which should include an international and a local dimension in order for it to work well.

to peacebuilding in this case is grounded in the concept of “Liberal peace” which derives from a long tradition of Western liberal theory and practice. It is then against this background that the Galtung’s ABC conflict triangle theory and the Liberal peace theory with its link to peacebuilding are being used to guide the study concerning the trials of a CPA: an investigation into the dilemmas faced/being by Sudan and South Sudan. The two theories in this regard are applied in chapter 2 in relation to conflict resolution/peace processes in general, and in the remaining chapters in relation to the Sudan conflict.

1.10 Conceptual framework

The concepts of conflict resolution, peace agreements and self-determination and its options of power sharing and separation will be conceptualised. **Chapter 2** refers in this regard.

1.11 Research design and methodology

The study adopts a flexible design approach. A research design is a plan, structure and strategy of investigation so conceived as to obtain answers to research questions or problems. Robson (2011:131) states that fundamental characteristics of a flexible design approach to research includes an evolving design, the presentation of multiple realities, the researcher as an instrument of data collection, a focus on the participants’ views and showing of a rigorous approach to data collection, data analysis and report writing whereby the researcher has the responsibility of verifying the accuracy of the accounts given. It is due to these beneficial characteristics that the design is used to guide the study.

The study is qualitative in nature with an intrinsic case study methodology. Lapan et al. (2012:69) states that an appropriate evaluation to the methodology is necessary prior to starting research. Methodology in this regard refers to the choices we make about cases to study, methods of data gathering and forms of data analysis in planning and executing research study (Silverman, 2005:109).

According to Lapan et al. (2012:246) an intrinsic case study is used to solely understand a specific case. The study uses the 2005 Sudan CPA process and the relationship of Sudan and South Sudan after the independence of the south covering the period 2002 up to 2013 as a case solely to develop an in-depth understanding

about it by using the data collected through primary (interviews and archival) and secondary (documents) sources.

In support, Bromley (1990:87) states that a case study is a systematic inquiry into an event or set or related events which aim to describe and explain the phenomenon of interest. The case study approach allows making in-depth investigation to gain valuable and unique insights, as it focuses on relationships and processes within social settings which tend to be interrelated (Denscombe, 2003:32).

Various qualitative methods of data collection and analysis in this study are employed based on the advantages provided by the intrinsic case study approach. Due to the complexity of the social phenomena, the use of different collection methods in social research is a very helpful way to better understand that complexity (Greene, 2007:45).

In terms of the philosophical stance, the study embraces social constructionism ontology and a critical theory epistemology. The social constructionism ontological perspective, translates that reality will be crafted from the claims and the assumptions of the respondents.

From an epistemological point of view this study is guided by critical theory (CT). According to Miller and Brewer, (2003:94) epistemology is the study of knowledge. It is argued that the term is concerned with the nature of knowledge and justification, how we know what we know hence, epistemology focuses on the means for acquiring knowledge and how it could be possible to make a distinction between truths and fallacy (Greetham, 2006:45-62).

Critical realism tradition posits that CT takes a middle position between empiricists who view reality as independent from the mind (materialism) and idealists who argue that reality is a creation of mind. For critical theorists reason is the highest potential of human beings and that it is possible to use it to criticize and change the nature of the existing societies (Blaikie, 1993:52). Critical Theory has a narrow and a broad meaning in philosophy and in the history of the social sciences (Horkheimer, 1972: 246). In both the broad and the narrow senses, however, a critical theory provides

the descriptive and normative bases for social inquiry aimed at decreasing domination and increasing freedom in all their forms.

This position suggests that CT explains what is wrong with current social reality, identifies the actors to change it, and provides both clear norms for criticism and achievable practical goals for social transformation. Any truly critical theory of society in this regard has as its object human beings as producers of their own historical form of life” (Horkeimer 1993, 21).

The theorists in this regard argue that social scientists need to be critical in order to be able to understand social phenomena. In order to uncover social behaviour, therefore, factors such as power relations, unseen cultural aspects and political agendas have to be taken into consideration (Thomson, 2000:14). Socio-economic and political aspects of a phenomenon do not appear overnight, they evolve and develop over time. This necessitates historical analysis for better understanding of the evolution of a social phenomenon. Critical theorists frequently rely on historical, ethnographic research and case studies and in this case, this study is no different.

CT asserts that social research will always be influenced by values; it is not possible to accomplish value-free social research. The argument of CT, in this respect is that research is a political activity, working either for or against the status quo (Miller and Brewer, 2003:60). This is a direct translation that CT sheds light on how ideology, systems and structures can influence freedom of human beings and shape reality and at the same time provides an advantage of reflexivity as a process of self-reflection.

The perception in using the indicated ontological and epistemological approaches is the understanding that the combined use of the primary (Interviews and archival records) and secondary (Documents) data collection methods assist in bringing the aspect of rigour in the collected data.

1.11.1 Sampling strategy and the site of the study

Sampling is the process of selecting individuals or groups from a population of interest whilst a sampling strategy is the plan set forth to ensure that the sample to be used in a research study represents the population from which the sample is

drawn (Kumar, 2011:193). The study used the non-probability sampling approach which involves the selection of elements based on assumptions regarding the population of interest as a basis for selection (Bowling, 2002:209). This translates that the samples were selected based on my judgement as a researcher. This gave me an advantage to choose samples with appropriate knowledge on the study. In this case, those who took part in the mediations/negotiations and the implementation of the CPA and those who had expert knowledge and assisted the participants were considered for selection to take part in the study.

Purposive sampling and snowball sampling techniques were employed to identify the right research participants for the study. The purposive sampling technique was employed in order to identify key informants. Lapan et al. (2012) defines purposive sampling as the seeking out of participants who have in-depth knowledge on the proposed study and the people so chosen as informants. According to Stake (1995:27), an informant is someone who knows a lot about a case and is willing to chat. The key informants identified were then used as initial contacts for the snowballing sampling exercise.

Ritchie and Lewis (2003:35) define snowballing as a method used to trace people not known to the researcher but introduced by the informants who may recommend the researcher to them. Snowballing in this context was used as a platform to trace any other relevant stakeholders who possessed useful and relevant information on the study and willing to share it. This was done in all the sites in which fieldwork was carried out.

In spite of the usefulness and the relevance of the information which can be provided by these informants, the technique has some disadvantages that this study had to consider. Kumar (2005: 247) observes that if the participants chosen at the first stage have any biases, the study may also be biased. In respect of this factor, during the fieldwork I tried my best to be careful on the recruitment of the gatekeepers in order to ensure that the selection of the respondents was based on possession of knowledge biased or not which was valuable to the study. My sample mainly included the local actors (Northern and southern Sudanese) and external actors (those from other countries) who either took part in the negotiations/mediation of the CPA or had expert knowledge concerning the study especially those that had been used as technical experts by the concerned parties.

The study sites for the research were UK, Sudan, South Sudan and Kenya. Sudan and South Sudan were selected as the conflict countries where most of those who took part in the peace process live. The selection of Kenya as site was based on the fact that it was the host for the whole IGAD mediation/negotiation process of the CPA and that most of the secretariat's staff had come from there. The UK was chosen because it was one of the countries in the Troika (Other members were United States, Norway and Italy) which was involved with supporting IGAD with the mediation/negotiation process of the CPA, has a large community of Sudanese academicians and experts who had provided expert guidance to those who were involved with the Sudan CPA and have experience concerning the relationship initially of Sudan and southern Sudan and later between Sudan and South Sudan. This choice came in as well as a result of the researcher studying in UK.

Where possible though, other members who formed the Troika were also sought to take part in the study especially those that live in the suggested study sites or who could be communicated to through other means like Skype. The researcher could not travel to North Sudan due to travel restrictions. In order to avoid imbalance in terms of the information to be collected from North Sudan, the use of North Sudanese who took part in the process or provided expert knowledge to the participants and are now living either in the UK, Kenya or South Sudan or at some point travelled to any of the study sites especially UK was maximized.

1.11.2 Sampling frame

The sample frame for the study included the leadership of the combatants during the conflict from northern and southern Sudan, senior politicians from the two regions during the period in question, IGAD staff, members of the diplomatic corps from countries which were involved at the time, members of the Troika (USA, UK, Norway and Italy); IGAD Partners Forum members; OAU/AU staff, UN staff who were involved as observers and experts with knowledge on the study area.

1.11.3 Recruitment (Gatekeeper and respondents).

The sample was recruited mainly through gate keepers. I solicited assistance from academics specializing or specialized in Sudan and others who knew about Sudan and South Sudan and the CPA process to assist with the recruitment task.

Dr Abdelwahab El Effendi, a northern Sudanese currently working with the University of East London, Mr. Daniel Large, a British currently working at the School of Oriental and African Studies (SOAS) in London and Father Martin Otchaya a Catholic church priest from South Sudan currently studying here at University of Bradford assisted with the leads I could contact.

Father Martin at the time was about to travel to South Sudan for a holiday and volunteered to travel together with me in the case of South Sudan. While in South Sudan, he assisted me by introducing me to the people I had earmarked in my purposive sampling who also later assisted with the snowballing exercise.

In the case of Kenya, I used my own previous acquaintances to come up with those I could contact through e-mails, letters and phones. General Lazarus Sumbeyiwo who was the special envoy of the IGAD and the Kenyan Ambassador for peace during the mediation/negotiation process of the 2005 Sudan CPA who lives in Kenya accepted to be a respondent in the study and to assist me with the snowballing exercise. Through him as well, I was able to get connected to some of the Troika members after he had talked to them about me and my study. Some were met personally here in the UK while others who live in other parts of the world were interviewed via the skype communication facility.

In the case of Sudan, I used my affiliation with the Saint Anthony College, at Oxford University which has a Sudan and South Sudan research centre where many scholars and experts from the two countries come to make research presentations. Through interactions with some of them, I got connected to some figures who either took part in the CPA process or provided some technical advice to those who were involved with the process whenever they were in this country (UK).

Respondents were categorized as local (those from northern Sudan and southern Sudan), international (those who came from other countries) and experts (local or international) in order to be in line with those mentioned to have been involved with the CPA process directly and indirectly.

1.11.4. Data sources and collection methods

The Data for the study was collected from primary and secondary sources and generated from specially targeted individuals and materials. Primary data was collected through in-depth key informant interviews and reviews of archival materials

while the secondary data was collected through reviews of earlier research, mass media (secondary analysis) (Corbetta, 2003:64).

1.11.4.1 Interviews

The study used the in-depth interview approach with key informants targeted as the agents to provide the data. The advantage of in-depth interviews is that they provide an opportunity for detailed investigation of each person's personal perspective, in-depth understanding of the personal context within which the research phenomenon is located and very detailed subject coverage (Ritchie and Lewis, 2011:35). This translates that the technique allows the interviewer to control the process and the overall direction of the interview but at the same time allows the interviewee enough freedom to respond to the questions, hence my choice of the method in this study.

Key informants such as senior diplomats, top ranking government officials, senior political party cadres and experts are usually influential, prominent, and/or well-informed individuals in organizations or communities (Gubrium and Holstein, 2001:45). Advantages of using these cadres include valuable information being gained because of the positions they hold in social, political and financial, or administrative realms, provision and gaining of important information due to their familiarity with policies of organizations or institutions being studied and the histories, legal, financial structures and plans from a particular perspective (Marshall and Rossman, 1999:82). A balance between the advantages and the disadvantages guided me to have a clear understanding of the use of informants in a study.

The fieldwork covered a period of an intensive four months (Kenya and South Sudan for three months and one month in UK). In the study, thirty (30) respondents were targeted to take part but had prepared to continue with the collection exercise until a saturation point was reached. Lincoln and Guba (1985:93) define saturation as the continuation in the search for data until the evidence becomes redundant with no new information coming. At the end of the whole exercise however, the researcher only managed to interact with 24 respondents (**see table 1.1**).

Table 1.1: Participants in the study

	Sudan	South Sudan	IGAD	The TROIKA
Participants	5	7	4	2
Experts	1	2	3	-

Source: Self made

Before commencement of interviews, participants were provided with a participant information sheet which had details about the study and after their familiarisation with the details, they were provided with a written consent form (**See appendices 1 and 2**). (A further account on this aspect will be provided below on the ethical considerations sub section).

The interviews were administered through a semi-structured interview protocol; each interview lasted for a period of between forty five minutes and one hour (**See appendix 3**). This depended on the time the interviewees had allowed me to have with them and the depth of their reactions. The questions were mostly tailored with focus to generate rich data to address the research questions to a reasonable depth. The view in the context for using the interview approach was that it has been evidenced that the approach generates data about participants' feelings, opinion and emotions that cannot easily be observed or generated using a structured approach (Creswell, 2007:107).

1.11.4.2 Public records and archival documents

In this method public records which include archive records and reports were reviewed. Public records include government documents and information or reproduced sources and archival documents that are made available to the public (Kumar, 2011:139). Archival documents are private documents usually accessible only through archives or specialized libraries that hold and preserve historical materials (Lapan et al., 2012:151). Access to these resources involved me visiting archives here in the UK and in South Sudan. The researcher, however, used the

archive at the University of Durham extensively which has a huge Sudan/South Sudan collection section in this regard.

1.11.4.3 Secondary Sources

Secondary sources were used to collect secondary data. In this method, earlier research, personal records and mass media which include reports published in newspapers, magazines and on the Internet, books, published debates and pamphlets were maximized (Kumar, 2011:163). The researcher also used the Internet extensively in the case of secondary analysis and likewise earlier research in the form of textbooks, journal articles, dissertations, discussion papers and working papers mostly from the University of Bradford library and its net.

1.11.5 Data analysis and interpretation

Data analysis is the process of piecing together data, of making the invisible obvious, of recognizing significance from insignificance, of linking seemingly unrelated facts logically, of fitting categories one with another and attributing consequence to antecedents (Creswell, 2007:163). Robson (2011:467) states that the case study approach does not call for a particular approach of qualitative data analysis.

Data for this study however, was analyzed using the thematic coding approach which includes data reduction, data display, conclusion drawing and verification (Miles and Humberman, 1994:10-12). Data reduction in this case is the process of sorting out key words through a coding process, themes or responses whereas further reduction of data is the presentation and visualising process which is meant to present the in-depth picture of the case using narratives, tables, figures and diagrams referred to as data display aimed at making the data to be more understandable (Creswell, 2007:163).

All the interviews in the field were recorded but were also complemented with notes, mostly on points that were critical for the study. In this regard, the analysis process started with listening to all the recordings and reading the notes that were taken in the field after arriving from the field. This exercise produced transcripts for all the interviews which were carried out in the field. The transcribing process took me four months to complete.

The researcher then reviewed the transcripts and labelled them in order to flag specific observations and wrote comments related to each interview separately as part of data management. At this stage, the researcher created and organised files for the data; read the transcripts one by one once more and made notes in order to form the initial codes.

The next stage involved coding and the development of categories. This is a sorting out process which involves comparing, contrasting and combining data (Robson, 2011:468). This was done by describing the cases and their contexts and classifying them in order to establish themes or patterns.

The researcher used an excel programme to create tables and diagrams following manual counting to identify some interrelated factors, their relationships and their frequencies. This process was directed by the research questions. My focus at this stage was to identify and select the issues and categories which appeared relevant to each question or group of questions and put them together. After completing the coding and the development of categories, the researcher drafted an initial summary of findings which was shared with my supervisor in order to have his initial comments before proceeding with the analysis.

From the categories phase, the researcher then started observing patterns and trends, and making further categories. This helped me to establish some meanings and associated terms and to start drawing initial conclusions based on the display of the data that was done in the earlier stage in order to generate meaning. Robson, (2011:473-485) states that data display is a tactic for drawing meanings and making verifications by going back to the original sources of data in order to ensure that meanings and conclusions drawn do not contradict with the data. In my case, reference to my recordings or comparing sources was done to satisfy this step.

1.11.6 Reliability and validity

Reliability is the judgement that an instrument is consistent (Kumar, 2011:181). Hammersley, (1992a:67), however, defines reliability as the degree of consistency with which instances are assigned to the same category by different observers or by the same observer on different occasion. A simple translation would be the extent to which a study would give consistent conclusions if carried out by the same person or

different researchers more than once with the same people under similar standard conditions (Kumar, 2011:396).

The simple nature of the design of my interview questions which were open-ended, clarity of their meanings and a logical arrangement of flow presented a best reflection of reliability. The purpose was to make it easier for the respondents to understand and likewise through the simple open ended questions be able to obtain accurate and more reliable data. Such an objective was made possible due to the adoption of certain additional measures, such as pre-testing of questions and applying probing and prompting where necessary for further clarification of issues. A consistent standard method of asking questions though with slight differences due to prompts and probing were very useful in the context of cross-checking the data.

In order to get the best out of the data, the researcher used the triangulation approach. The aim in this regard was to ensure that there was agreement of evidence from the data which had been collected using the methods used (George and Bennett, 2005:99). When the researcher obtains similar findings from multiple sources using various methods, the information is considered more trustworthy.

1.11.6.1 Validity

Validity is the judgement that an instrument is measuring what it is supposed to measure (Kumar, 2011:178). Bryman (2001:156) in supporting this position states that validity relates to the effectiveness and accuracy of the measuring tools. Validity in this regard, it can be noted is used to ensure that the methods and techniques used to generate data for research are genuine and suitable to achieve the purpose. As asserted by Lapan et al., (2012:256), it is essential that a firm and vigorous link is maintained between the ideas and the reality of the social phenomenon on the ground. In this study, the data analysis process used served to ensure the validity of the data through the cross checking process.

1.12 Limitations of the study

The people who took part in the mediation/negotiation activities came from a number of countries (USA, UK, Norway, Italy and Kenya among others) and even those from South Sudan come from places far away from the capital (Juba). These were difficult to locate and in some cases even when they were available, reaching them had

added financial and security implications specifically those located in remote areas. Due to these factors some cadres who had important information could not be accessed. Most of the people who took part in the mediation/negotiation of the CPA are now senior officials in the governments of North and South Sudan. Due to their status, it was and still is a problem to get access to them which in essence means that some important data could not be collected.

In the case of the Sudan and South Sudan respondents, most of them are senior security and political figures and in most instances especially those from Sudan used Arabic language which I did and do not understand. At times due to their status refused to take part in the study. In the circumstances, whereby some accepted to take part, security was used as a shield for them not to discuss some issues while the use of the Arabic language limited me to probe more on important issues in the case of the Sudan respondents. Due to these two factors some information could not be obtained.

1.13 Ethical considerations

The conduct of the study involved interacting with people in many institutions within and outside the UK and acting in accordance with the best practice of research of the University of Bradford. In relation to social research, ethics refer to the moral deliberation, choice and accountability on the part of researchers throughout the research process (Comstock, 2013:10). Ethical rules in research differ from one research to another depending on the adopted methodological approach. However, there is a common agreement among researchers that ethical responsibility represents an integral part that should be appropriately incorporated in the research topic, design and plan (Oliver, 2010:10). The ethical considerations in this study are divided into those which took place before the study, during the study and after the study.

The activities before the study included the preparation of a proposal and after its' vetting by the school, submitting to the ethical committee of the University for Authority and clearance for the study to be undertaken. A request was also made to the University during the period to provide me with a letter of authorization for clearance to gain access to institutions (archives and specially designated research

centres) where I could find research materials within the UK and even abroad where necessary.

During the field work period, the principles of voluntary participation (Self-determination and autonomy), consent, privacy (anonymity and confidentiality) and doing no harm and beneficence were adhered to. Consent was sought from the participants before any interviews to ensure voluntary participation. In this case a written consent form was presented to the potential respondent/s and administered before the interviews (**see appendix 2**). Throughout the duration of the field work, reasonably informed consent level was applied in order to recruit and retain the respondents. In this case, the researcher made decisions on the amount of information which had to be provided to the participants.

The participants were informed of the known risks attached to the research and if they opted not to be involved, were allowed to withdraw and were not victimized. Similarly during the interviews, the respondents were allowed to withdraw from the study and no questions were asked. In terms of privacy, (protection of participants from being identified in publications) information was collected using the principle of confidentiality. Confidentiality is not limited to the statement of assurance but it includes the concrete steps that are taken to ensure that measures will be genuinely maintained and the information so provided will not fall into the wrong hands (Oliver, 2003:78). Confidentiality was used for most of the data which was collected while anonymity was used for participants who had requested for it. In the case of confidentiality, the participants' names and other identifiers were recorded on the data collection sheets, tapes or other records but no participant would be named or otherwise identified in publications which include talks, papers, posters, photographs or any other publically disseminated material.

In terms of the security for the data, while in the field it was stored temporarily in a memory stick but after the fieldwork at the University of Bradford, it was kept in my laptop which was secured with a safe password. In the context of the anonymity status, answers which could easily be attributed to a particular participant were paraphrased and any other details that might identify personalities were coded (**see appendix 4**). Other than me, only my supervisor could access the data. The information was kept by me for the whole duration of the PhD research project (2013-2015).

The research ensured that the “no harm principle” was adhered to by putting in place protective measures to protect the participants from any harm that could result or emerge from the study and ensuring that if any would occur, the risk would be minimal (Comstock, 2013:96).

Participants may not feel comfortable to talk about certain issues or may be willing to talk but not in front of other people (Israel and Hay, 2006:2). In this study I repeatedly reminded those who voluntarily engaged in discussing sensitive issues about their right to stop talking and/or rephrase their information or withdraw the information provided in full or part, if they so wished.

The ethical issues after the study mostly focus on the responsible dissemination of the work and its findings and scholarly issues specifically in the areas of honesty, reliability and validity. In this regard, the work will be submitted to the University of Bradford for assessment purposes and once successful; will be released into the public domain through publishing, conference presentations or press interviews after appropriate consultations. Data for the study will be kept for a period but after sometime will be destroyed after consultations and permission from the respondents. All the ethical activities that is, before, during and after the study were/will be done in order to adhere to best academic practice.

1.14 Research contribution

The study interacted with a great deal of content in the form of information that was generated from the research respondents, archival data and literature which was used to provide the basis of the study. The CPA case is recent and that apart from the historical narratives which cover the period up to 2011, not much has been covered about the activities which took place after 2011 and in-depth analyses of the CPA process itself in the context of conflict resolution. Johnson, 2011, Natsios, 2012, Young, 2012 and Copnall, 2014 are among the few authors that cover some material concerning the CPA process including the referendum, the post-referendum and post-independence issues.

The status of the relationship between Sudan and South Sudan initially as one state was usually very hostile but after the CPA it was assumed that it would improve especially after the guns had become silent on the battlefield (Johnson, 2011:173-174). South Sudan separated from Sudan after a referendum but even after its

independence there are still significant tensions and threats to a return to war by the now two separate states which is viewed as a threat to peace and security between the two states, the region and the world as a whole.

Young (2012:133) however, in view of the relations of Sudan and South Sudan before and after the separation, states that the CPA was a little more than an extended ceasefire. This was a way of indicating that the CPA was problematic. This claim originated from the situation that while the CPA was in place, Sudan and South Sudan still fought each other and that even after separation there were still issues which took the two countries back to war and even now threaten the same. This translates that the CPA transited with problems during its mediation, negotiation and the interim period up to the point when South Sudan separated from Sudan and became independent.

Given this status quo, the traumatic emergence of the right to self-determination is linked to the absence of key peace consolidating factors in the CPA or further that the tension and partial ownership of the CPA led to this absence and indeed the general partial failure of the separation option. Crucially the tense formation and the troubled implementation of the CPA (which were characterized by many dilemmas which were faced by both parties) in regards to the relationship initially of Sudan as one country and now between the two separate Sudans plays out a great deal in the current status of their relations. Against this background, the attitudes of the conflict parties were/are still hostile, behaviour still violent and the conflict structure not changed as is perceived in the Galtung's ABC conflict triangle theory.

Likewise, positive peace initially in one Sudan and later the two Sudans was/is absent. This implies that Liberal peace as advanced in the Liberal peace theory could not and has not been realized in the perspectives of one Sudan or the two separated Sudans. Due to this scenario, the CPA was challenged, the parties faced dilemmas and in turn tensions and threats to a return to war are prevalent.

The relationship of north and south Sudan in regards to the tensions and the threats to a return to war even after South Sudan became independent should then be perceived in a wider context. The untouched and unresolved issues in relation to the content of the CPA, the post-referendum issues and the post- independence issues

specifically based on how the CPA was mediated, negotiated and implemented should be seen as the basis of the status quo at the time and even now. As earlier articulated, the CPA is a current case, and as such not many in-depth studies have been carried out about it. This scenario makes this study to be unique. This is particularly in terms of the ways of achieving sustainable peace in the context of conflict resolution. The concepts and the frameworks used to advance the case of the CPA makes significant contributions empirically and theoretically.

Empirically, the data was collected through primary sources (interviews and archival documents) which brought out opinions, interpretations and experiences of the various interlocutors and archival details which are not available elsewhere complemented by the available recent literature in the context of conflict resolution. These aspects resulted in the formulation of my conclusion. The theoretical contribution emerges from the use of the lens of the Galtung's ABC conflict triangle theory and the Liberal peace theory as important conflict resolution/transformation theories using the Sudan conflict as a basis. The theories in turn are used in my findings to see if they are useful in resolving conflicts and understanding peace processes.

1.15 Structure of the thesis

This research consists of seven chapters. **Chapter one** concerns itself with the "research introduction and background. The issues in it include the research area, genesis of the research, research problem, research questions, aims and objectives, research design and methodology, theoretical framework, conceptual framework study limitations and finally the research contribution with focus on the 2005 Sudan CPA and the dilemmas faced by north and south Sudan.

Chapter two covers the literature review which focuses on the conceptualisation of conflict resolution, conceptualisation of peace agreements and the conceptualisation of self-determination and its options of separation and power sharing. The aim is to bring out the literature available in the outlined areas with focus on the 2005 Sudan CPA and the dilemmas faced by Sudan and South Sudan.

Chapter three discusses the historical perspective of the Sudan with focus on the scenarios which caused the conflict and factors that eventually led to the split of the country to become Sudan and South Sudan.

Chapter four discusses the analysis of the CPA in the context of conflict resolution. The chapter aims at providing a general overview of the 2005 Sudan CPA and the activities as related to conflict resolution.

Chapter five discusses the implications of the mediation, negotiation and the implementation as part of the post conflict peacebuilding part of the CPA. The purpose is to bring out an understanding of the issues which emerged from the mentioned processes in relation to conflict resolution.

Chapter six discusses the referendum, the post-referendum issues, the post-independence issues and the AUHIP conflict resolution efforts. It aims at bringing out an understanding of the issues that emerged and the reasons why the issues were/are difficult to resolve and the conflict resolution efforts attempted and in place.

Chapter Seven offers an overall conclusion of the thesis and particularly sheds light to the extent to which the thesis was able to address the main research questions. Included in it are the highlights of the summary of the conclusions, the theoretical consequences and a suggested area for further research.

The next chapter discusses the literature review of the concerned areas of the study.

Chapter 2

2.0 Literature review

2.1 Introduction

The world for some time has been witnessing and is still witnessing conflicts either between states (interstate) or within them (intrastate) usually with very devastating implications which mostly involve loss of life, property and retardation of social and economic development. In recent decades, however, conflict has shifted from interstate conflicts and is more on the side of intrastate conflicts. Conflict is healthy in some circumstances but the violence that comes with it, is what is problematic (Fish et al., 2000:4). Several factors cause conflicts and that as the conflict turns violent the effects require mitigating, managing and resolving as without such actions the world would not be a better place. Conflict resolution through its approaches and methods whose outcomes can be peace agreements provides a basis from which conflicts can be resolved in order to attain sustainable peace.

The aim of this chapter is to review the literature on conflict resolution/conflict transformation, peace agreements and self-determination with its options of power sharing and separation as an outcome of the methods of conflict resolution in order to have a clear understanding about them and later use their applicability in the study.

The basis of the argument is grounded on why there are tensions and threats to a return to war/conflict between the parties to a conflict after an agreement supposedly authored to end a war and eventually to resolve the conflict. This scenario is based on the north and south Sudan conflict which had/has been going on for a long time.

Considering the facts that the two states were at some point one country, that there are several commonalities between them (trans-border population, other southerners still in the Sudan and other northerners still in the South Sudan and an economic lifeline based on the oil resource (oil in the south and infrastructure for transporting it to the markets in the north), one would only wonder why there should be problems between the two states. The areas in their existence earlier as one state and later as

separate states faced and are still facing dilemmas on these issues which in turn retard the achievement of peace between them.

Against this background, this chapter covers the conceptualisation of conflict resolution with focus on its approaches and methods, conceptualisation of peace agreements, conceptualisation of self-determination and its options of power sharing and separation and finally a conclusion.

2.2 Conflict resolution conceptualised

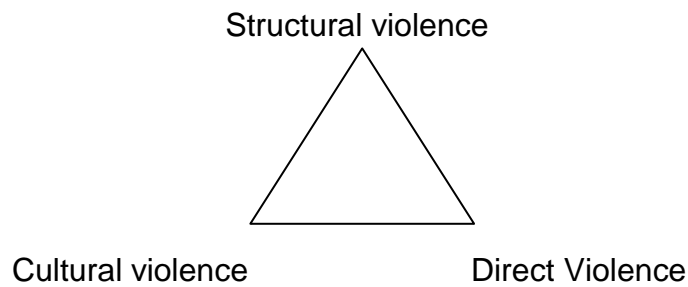
Human history is full of stories of violent conflicts whose implications have been and are usually devastating. Bercovitch and Jackson (2012:20) define conflict as a perception of incompatibility between two or more actors and the range of behaviour associated with such perception. Ramsbotham et al. (2011:30), however, perceive conflict as the pursuit of incompatible goals by two different groups and emphasises its usage to apply to any political conflict whether it be pursued by peaceful means or by the use of force.⁷

Whatever is the case, the incompatibility aspect is what is problematic especially if it leads to violence. Galtung, (1996:69) defines violence as avoidable impairment of fundamental human needs. Violence consists of actions, words, attitudes, structures or systems that cause physical, psychological, social or environmental damage and /or prevent people from reaching their human potential (Fisher et al., 2000:4). According to Galtung (1996:40-42) violence is categorised as structural, cultural and direct.⁸ **(See figure 2.1).**

⁷ Violent or deadly conflict is similar to armed conflict but also includes one-sided violence (such as genocide) against unarmed civilians (Ramsbotham et al., 2011:31).

⁸ Cultural violence is defined as aspects of culture that can be used to justify or legitimize direct or structural violence, structural violence as a form of violence that is embedded in systems that prioritise certain groups, classes, genders, nationalities among others over others in terms of goods, resources, or opportunities while direct violence is defined as violence in its physical form such as murder, torture, rape, beatings or sexual violence (Galtung, 1969: 167-191).

Figure 2.1 Galtung model of violence



Source: Galtung, J. (1996:40).

Conflict takes place either between states or within states but in recent decades, the nature of conflict has shifted away from the inter-state premise to that of intra-state whereby the proliferation of ethnic, religious, cultural and resource driven conflicts have become the major threats of international peace and security (Cheeseman et al., 2015:165). The North and South Sudan scenario is, however, unique in that both the interstate and the intrastate conflict dimensions are at play between them.⁹

Intrastate conflict is characterised by people being killed, displaced internally or forced to become refugees in other countries, economic growth and development being reduced, democracy stifled, conflict spreading into neighbouring countries and due to the conditions of conflict, the countries getting trapped in a cycle of violence that is usually difficult to break (Anola, 2009:339-340). Interstate conflict is characterised by huge losses of personnel on the battle front, civilians being killed or displaced and posing a threat to regional and international peace and security (Ibid: 341). The prevalence and persistence of large scale conflict retards political and economic development and as such should not be left to prevail.

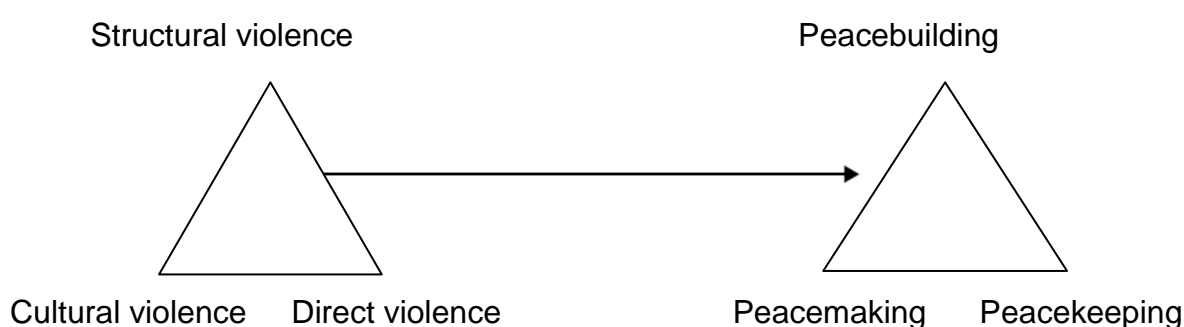
Since conflict may be inevitable, incompatible demands and claims which may be made by one party in a conflict can be met with refusal, counter claims or denial by another party, and given that violent conflict is very destructive and expensive in terms of human lives and material resources, conflict requires to be prevented,

⁹ Sudan supports factions in South Sudan to fight the government while South Sudan supports the Darfur rebel movements and the Sudan People's Liberation Movement- North (SPLM-N) under the umbrella term 'the Sudan Revolutionary Front (SRF) to fight the Sudan Government at the intrastate level while the tensions/threats to a return to war between Sudan and the South Sudan conflict is an interstate war status

managed and resolved in order to achieve peace. Non-resolution can, at the very least, be dysfunctional for the system within which it occurs.

Anderson (2004:101) defines peace as a condition in which individuals, families, groups, communities and/or nations experience low levels of violence and engage in mutually harmonious relationships. Galtung, (1996:9) taking it further views peace as the absence/reduction of violence of all kinds or non-violent creative conflict transformation. Definitions of peace from whatever source reflect several characteristics which include a condition or state of something that can be experienced depending on a context. The Galtung's conflict triangle models of violence and peace in this regard provide a simple representation of the violence-peace nexus (**See figure 2.2**).

Figure 2.2 The Galtung's conflict triangle models of violence and peace.



Source: Galtung, J. (1996:31).

According to the model, direct violence can be ended by changing conflict behaviour through peacekeeping, structural violence by removing structural contradictions and injustices through peacebuilding and cultural violence by changing attitudes through peacemaking. (**See figure 2.2**). Galtung (1996:31-33) asserts that the cessation of direct violence (absence of violence) amounts to negative peace and the overcoming of structural and cultural violence as positive peace.¹⁰ Such scenarios can only be

¹⁰ Negative peace refers to the absence of direct physical, verbal or psychological violence thus it is characterised by the absence of direct violence and preventing war. Positive peace is defined as social justice, the removal of all forms of structural and cultural violence, the elimination of social impediments to full

reached through initially the settlement and management of the conflict and later resolution through appropriate methods.

Ramsbotham et al. (2011:31) defines conflict settlement as the reaching of an agreement between the parties to settle a political conflict, so forestalling or ending an armed conflict. Fisher et al. (2000:7) view settlement as the reaching of agreement between the parties through negotiation and bargaining or in other words a settlement is a peace agreement. Conflict settlement aims at ending violent behaviour but the problem with it is that whilst guns become silent, conflict attitudes and the underlying structural contradictions may not have been addressed. However, conflict prevention is an important aspect of conflict resolution. Fisher et al. (2000:7) perceives conflict prevention as intentional use of various policy tools and instruments in order to prevent a violent conflict from emerging or escalating.

Conflict management, however, is defined as the limitation, mitigation and containment of conflict rather than the durable elimination of the causes of conflict (Ramsbotham et al., 2011:31). Typical conflict management strategies in this case include the use of military force for deterrence or peace-keeping and ceasefires (Jeong 2010:27).¹¹

This status quo translates that Conflict management refers to actions taken to mitigate or contain ongoing violent conflict and limiting the scale of destruction and suffering in order to avoid spill over potential into other areas. Settlements (like the Sudan CPA) and conflict management fall in the category of negative peace (Galtung, 1996:67).

Conflict once managed requires resolving through a conflict resolution process if at all the attitudes and the underlying structural contradictions have to be addressed. Bercovitch and Jackson (2012:1) define conflict resolution as a range of formal and informal activities undertaken by parties to a conflict or outsiders designed to limit and reduce the level of violence in conflict and to achieve some understanding on

human self-realisation, ecological balance and the meeting of basic human needs (Bercovitch and Jackson, 2012:170).

¹¹ Peacekeeping may involve separating the conflict parties from each other so that they do not keep inflicting harm on each other while ceasefires, sometimes referred to as truces are suspension of active hostilities.

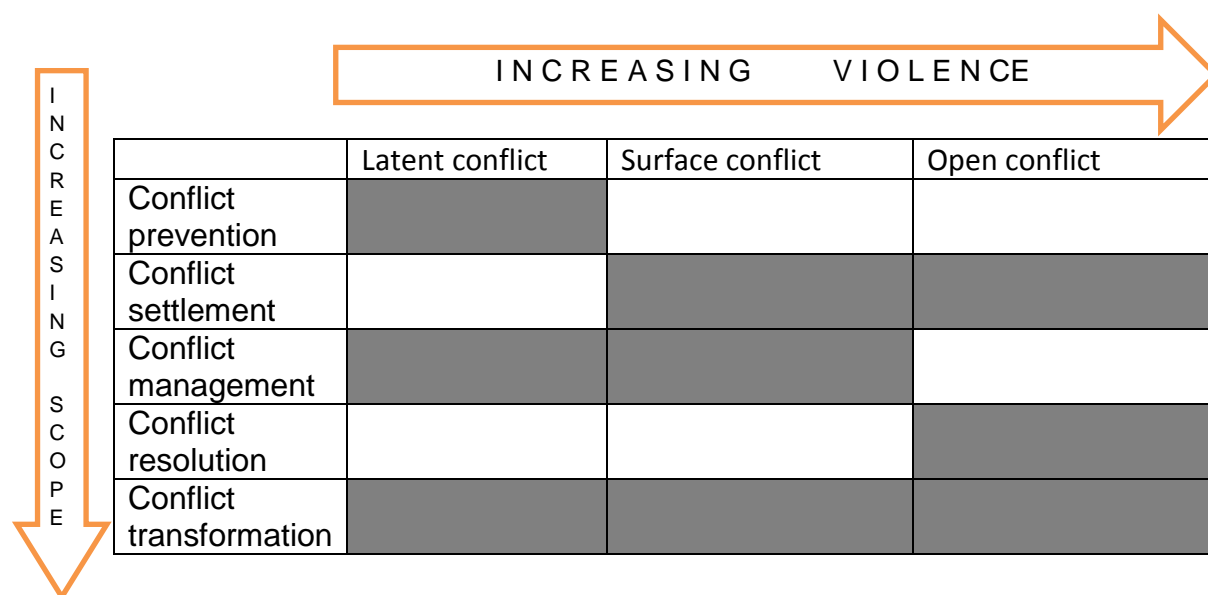
the key issues in conflict, a political agreement or a jointly acceptable decision on future interactions and distribution of resources.

Miall (2004:3-4) views conflict resolution as addressing causes of conflict and seeking to build new and lasting relationships between hostile parties by helping them to explore, analyse, question and re-frame their positions and interests in order to move the conflicting parties from the destructive patterns of zero-sum conflict to positive –sum (win-win) constructive outcome. Ramsbotham et al. (2011:31), views conflict resolution as a comprehensive term which implies that the deep rooted sources of conflict are addressed and transformed¹².

Lederach (2003:14) considers conflict transformation as the longer-term and deeper structural dimensions of conflict resolution which aims at transforming a conflict from violence and destruction into a constructive force which produces social change, progressively removing or at least reducing the conditions from which conflict and violence originated. This approach adopts facilitated meetings at which parties in conflict explore each other's perspectives and world views in order to alter the disputants' negative stereotypes of each other. According to Omeje (2008:70), conflict resolution is mostly suitable to address open conflicts whereas conflict transformation is suitable to address both open and latent conflicts (**see figure 2.3**).

¹² Such a scenario would imply that behaviour is no longer violent, attitudes are no longer hostile and the structure of the conflict changed.

Figure 2.3 Responses to conflict: the maze of terminology



Source: Fisher et al. (2000:7).

An analysis of the definitions shows that conflict resolution is about accepting a conflict, recognising that there are ways out of it and engaging in some tacit or explicit coordination without which none of its goals can be achieved. Jeong (2010:9) states that conflict resolution is supposed in this case to explore opportunities for forging new relationships by facilitating peaceful change and reconciliation. Conflict resolution should be perceived as a process that if successful, may help parties in conflict achieve a new and better modus vivendi. Conflict resolution and its deeper level, conflict transformation in this case create conditions for negative and positive peace (Bercovitch and Jackson, 2012:170).

2.2.1 Conflict resolution approaches

Conflict resolution is a very important undertaking in societies/states that are in conflict. Generally conflicts are said to be resolved when a discernible outcome has been reached, conflict behaviour terminates and a satisfactory distribution of values and resources has been agreed upon (Anola, 2009:340). The north-south Sudan conflict required meeting these stated requirements to qualify as resolved and for the dilemmas that the parties were facing to be cleared.

Resolution of conflict in the international system is done following particular approaches depending on the prevailing norms and the nature of conflict at a particular time. Bercovitch and Jackson (2012:20) state that the approaches to conflict resolution can be classified in terms of the participants in the process (unilateral, bilateral or multilateral) or in terms of the modality utilised (violent or non-violent).

There are western approaches which currently dominate the international system and indigenous approaches which are unique to particular states/societies. MacGinty (2008:121) clarifies on the use of the terms 'indigenous and traditional' and states that although used interchangeably, the terms have overlapping but not precisely similar meanings and states that traditional denotes a practice or a norm that has a heritage of considerable duration while indigenous suggests that an activity or a norm is locally inspired.

The western conflict resolution approaches include the traditional and the 21st Century (multidimensional) approaches and methods as the main categories (Bercovitch and Jackson, 2012:6-7). Richmond (2002:9-11) on the same in his version includes first generation, second generation and third generation premises as the main categories, Ramsbotham et al., (2011:36-62) although in a historical form includes; the first generation 1918-1945 (precursor), the second generation, 1945-1965 (foundations), the third generation, 1965-1985 (consolidation), the fourth generation, 1985-2005 (reconstruction) and the fifth generation, 2006 up to the present as the main categories and likewise Omeje (2008:75) has traditional (indigenous) and modern premises in the African context as the main categories.

The changing nature of conflict in the international system has necessitated the emergence of dynamics that in turn have forced the development of new approaches in the area of resolving conflicts and a paradigm shift in the perception of conflict settlement, management, resolution and transformation. In regards to the different approaches as perceived by the different scholars, the second and third generations and the fourth and fifth generations represent the 21st Century approaches as most of the developments being advanced took place during the century while all the others belong to the traditional state-centric category in the western context

(Richmond, 2002:9-11 and Ramsbotham et al, 2011:36),. The African context can best be viewed as was articulated by Omeje, 2008.

2.2.1.1 The traditional/First generation approach

The concepts of the generations and traditional parameters before the 21st Century in conflict resolution seem to have a common grounding and approach. Richmond (2002:9) states that traditional peacemaking and peacekeeping are described in the typology put forward as first generation defined by the norms of state interaction and international law. According to realpolitik approaches, conflict is ameliorated at state level by negotiation and tactical bargaining or coercive third party intervention and therefore dependent on the state centric framework of international relations which are subject to security dilemma, managed through the balance of power mechanism or in its neo-liberal form pacified by the spread of capitalist democracy and the intervention of international institutions.

Bercovitch and Jackson (2012:6) state that the traditional conflict resolution approach is a state-centric Westphalian system whose goal is to resolve conflict so as to protect order and security and by reinforcing the ability of states to pursue their own interests. The approaches by the scholars although given differing labels mean one and the same thing and that mechanisms associated with the approaches in this category were derived from the traditions, norms, and the culture of western diplomacy as it evolved since the Treaty of Westphalia, which favoured stylised and formal communication between sovereign representatives, militaries and diplomats as the traditional tools of conflict management.

Additionally, in the approaches, the traditional tools of conflict management revolved around legal methods, peacekeeping, mediation and negotiation frameworks and the incorporation of actors defined in terms of either states or insurgents. Thus, state behaviour was dictated by state interests, meaning that conflict between states was intrinsically a conflict of interest and thus defined as zero-sum.

Cheeseman et al.,(2015:2002), argue that coming from this background, states alone or by entering into alliances sought to prevent or mitigate violence by using threats of armed force in the form of deterrence, coercive diplomacy and /or defensive alliances. The North Atlantic Treaty Organisation (NATO) is a case in point

in this regard and functions as a procedural means to manage international disputes and to increase the effectiveness of diplomacy. Such organisations are bound by the framework of international law within a system where civil conflict and political violence is the responsibility of the states and not subject to international supervision and intervention.¹³

This position translates that within the state-centric system of the first generation/traditional approaches, the UN did not intervene in intrastate conflicts unless they became internationalised due to the principles of self-rule and territorial integrity which underlined the Westphalian system. The system favoured negotiations between the disputing parties to settle their conflict and to maintain the status quo. The intrastate conflicts which usually involve non-state actors were considered as a threat to the status quo in the system that privileged the state above all else because in most occasions conflict involved issues of self-determination and recognition of a particular ethnic identity.

Considering what is perceived to be the content of the traditional approaches by the quoted scholars, guided by the western realist/positivist hegemonic discourse, the approaches did not and cannot resolve intrastate conflict by maintaining the territorial integrity of the status quo and that the approaches only enabled a binary understanding of the parties to conflict which perceives belligerents through the western stereotypes. This was the case in Sudan before the separation of South Sudan. Despite several attempts by the state to resolve the conflict, attitudes, behaviour and the conflict as perceived in the Galtung's ABC conflict triangle theory could not change and likewise Liberal peace could not be realised as the structures to support it were absent.

2.2.1.2 The 21st Century multi-dimensional approaches

The 21st Century approaches and methods (Bercovitch and Jackson, 2012:3), second and third generations (Richmond, 2002:9-12), fourth, fifth and sixth generations (Ramsbotham, 2011:36) can best be categorised for ease of reference as the 21st Century multi-dimensional approaches of conflict resolution. With the

¹³ In accordance with the perspective, military personnel were used in peacekeeping, observation, policing and humanitarian roles to provide a stable environment for negotiation and mediation and consent of the disputants was regarded as a critical requirement.

prevalence of intrastate wars based on identity issues rather than territorial ones at the end of the Cold War, the traditional approach to conflict resolution became ineffective (Ramsbotham et al., 2011:56). The state of affairs at this point required a change in the approach to conflict resolution in order to be in line with developments as the traditional approaches were viewed and described as mono-dimensional and narrowly defined.

Fundamental changes in the nature of the international system in this regard with respect to traditional approaches to conflict resolution which sought to preserve the status quo of states required to usher in a new thinking. In response to the scenario, scholars started to focus on various approaches previously neglected such as track II diplomacy, problem solving workshops, peacebuilding and conflict prevention measures (Hartzell and Rothchild, 2001:184-185). Sambanis and Doyle (2000:780), state that it is increasingly being recognised that the combination of conflict resolution efforts at both official and non-official levels is important as it is a potential for combining new approaches with traditional mechanisms where appropriate.

The establishment of just and democratic political orders, the resuscitation of failing or collapsed states, the promotion of human rights, the creation of emancipatory political structures, reconciliation and truth commissions, international tribunals, preventive diplomacy and early warning systems serve as important goals and tools which can assist to address the new forms of conflict.

Bercovitch and Jackson (2012:10) on the same state that the new approaches to conflict resolution are becoming increasingly multi-dimensional that is including UN peace operations, regional organisations, global, regional and local Non-Governmental Organisations (NGOs). Thus, the new approaches to conflict resolution have evolved at the global, regional and local levels and that they are designed to produce inclusive structures and long term settlements of conflict.

The objective of the modern conflict resolution approach and methods in this case can be alleged to be the rebuilding of societies (not just states) via both top down high level and bottom up grassroots methods. The understanding behind the venturing into the new approaches may have emerged due to the shortcomings of the traditional methods and thus their focus is more emphatically on resolving deep

seated and structural issues with the involvement of many non-official actors as well as official ones.

In supporting this position, Kelman (1998:191) states that the new set of approaches to conflict resolution emerged partly as a reaction to the balance of power conflict management techniques which were associated with positivist/realist approaches that had dominated the pre and Cold War eras. The approach is mismatched with the new developments of the nature of conflict and the actors involved and as such required overhauling to meet the new challenges.

Richmond (2002:79) argues that conflict is a dynamic process in which structure, attitudes and behaviour shift constantly in the context of each other, in which disputants' interests come into conflict and their relationship becomes oppressive which in turn may also draw other parties. The group of approaches in the 21st Century context examines the root causes of conflict based on human nature, behaviour and social structures in order to accommodate the dynamic process, context of structure, attitudes and behaviour which constantly keep shifting (Bercovitch and Jackson, 2012:9).

An analysis of all the contributions on the aspects of the 21st Century methods, (preventive diplomacy, humanitarian intervention, regional task sharing, non-official diplomacy and peacebuilding) appear to be the most appropriate as vehicles for effective conflict resolution in the now most dynamic international system.

The translation of the scenario in this regard is then that the new approaches adopt a more intersubjective view of conflict including politics in particular with respect to representation and identity. Additionally, the perspective indicated by the new approaches reveal that their goal is not just the cessation of violent behaviour but the establishment of new forms of interactions that can reflect the basic tenets of justice, human needs, legitimacy and equality.

Richmond (2002: 78) differentiates explicitly between the traditional and the new approaches by stating that the distinction between the first and the second sets rests on two different views of what constitutes peace. Sambanis and Doyle (2000:782-785) state that the future of conflict resolution depends on the use of new forms of

addressing conflict and sustaining peace that have not been traditionally associated with conflict solution and further argues that an inclusive definition of conflict resolution allows for a wider variety of actors to be involved which in the traditional approach context is neglected. This position is a direct translation that the old approaches of conflict resolution were exclusive in nature and as such could not really assist to resolve the underlying roots of conflict.

Thus, the crucial development in the post-Cold War era has been the expansion of the political and non-political actors who deal with conflict and its resolution among them International Organisations (IGOs), women, the civil society and the media. Miall et al., (1999:61) state that the inclusion of all parties affected by conflict including women is imperative if a true understanding of the roots of conflict is to be achieved, if obstacles to peace processes are to be removed and insights into alternative methods of peacemaking are to be gained.

Women and men experience conflict differently, face death differently and are tortured and abused in different ways for may be biological, social or psychological reasons. While more men get killed in combat, women among other things experience slavery, rape, forced pregnancies and deliberate infection of HIV/AIDS or sexually transmitted infections (STIs) as a weapon of war (Morris, 1996:653).

This suggests that the inclusion of all sectors of the society in the peacemaking and peacebuilding efforts as part of the conflict resolution process furthers the development of innovative, viable solutions and the establishment of sustainable peace.¹⁴ The context of the emergence of the 21st Century approaches to conflict resolution in this regard translate to efforts being made to achieve better outcomes from conflict situations.

This is justified from the facts that the modern approaches of conflict resolution recognises the importance and potential of local actors, the different ways war is experienced by men and women and the need for both official and non-official channels of communication. Applying a relevant conflict resolution approach is also

¹⁴ Sustainable peace is a process of the creation of a proactive process that is capable of regenerating itself overtime (Lederach, 1997:75).

significant to the difficulty of the UN implied by the principles of state sovereignty as was perceived in the Cold War era.

The downside of the 21st Century approaches, however, is that they tend to reflect more about western thought and values while assuming that they are universal and likewise fails to provide an interface between the state-centric dimension and the non-state centric dimension (Richmond, 2002:126). Traditional approaches to an extent still have a part to play in the case of interstate wars. The Sudan and the South Sudan scenario which has two faces of conflict (interstate and intrastate dimensions) present a case in point. In both cases of the inter-state and intrastate perspectives in view of conflict resolution, attitudes and behaviour of the parties require to change in order for the conflict to be transformed as is advanced in the Galtung's ABC conflict triangle theory. In the context of the intrastate perspective, peacebuilding activities require to be undertaken in order to attain liberal peace as is advanced in the liberal peace theory.

2.2.3 Indigenous/traditional approaches (the African scenario)

Africa has been subjected to a multiplicity of armed conflicts in most instances especially after the post-colonial era resulting in it being labelled as the most turbulent and poorest region in the world. Egwu (2007:406), notes that at the end of the Cold War Africa witnessed an accentuation of the incidents of intra-state wars horizontally between different socio-ethnic and cultural aggregates within nation groups who felt/feel excluded and marginalised from existing power on the one hand and the central authority on the other and of course inter-state wars. This situation has, at times, made intra-state wars to degenerate into inter-state wars.¹⁵ The Sudan and South Sudan and the Eritrea and Ethiopia scenarios are cases in point.

Such conflicts require managing, mitigating, settling and if possible resolving and transforming. Dating from pre-colonial antiquity, various African societies have had their own traditional/customary approaches and methods of conflict prevention, management and resolution which were embedded in the people's cosmology and

¹⁵ Many conflicts that manifest as internal revolts/civil wars inadvertently spread to other neighbouring countries or ended up provoking some form of intervention or complicity from neighbouring states and ethnic nationalities across international borders. The Tuareg rebellion in the Sahel region, conflicts in the Mano River basin and the Democratic Republic of Congo (DRC) are some cases in point (Omeje, 2008:68).

culture with a profound religious culture (Omeje, 2008:88). Prior to western contact, African traditional religious practices and Islam largely shaped the culture of conflict resolution and its methods.

The incorporation of Africa into the global system through western colonialism has had sweeping effects on the nature of conflicts as well as the traditional approaches and methods of conflict resolution (Francis, 2008:88). The result of this shift is that the traditional African approach has been significantly diluted to the extent that some of the related methods have either been displaced or significantly transformed by the countervailing imperatives of the western civilisation. What has then transpired due to these developments is that Africa now has two dimensions of conflict resolution approaches which namely are modern based on the western model and indigenous/traditional based on cultural practices.

Murithi (2008:16) states that externally driven international efforts to resolve conflicts in Africa are often faced with the limitation that the local parties are sometimes unwilling or unable to relate to such initiatives. Francis (2008:16) in supporting this position states that often times official high level diplomacy (which is a western approach) tends to focus on promoting dialogue between the leaders of the warring parties based on the assumption that they are the legitimate representatives of the people which at times may be erroneous. Darby and MacGinty (2008:121) support this position and state that indigenous conflict resolution involve consensus decision making, a restoration of the human/resource ecological balance and compensation or gift exchange designed by respected elders input to ensure reciprocal and ongoing harmonious relations between the groups with trust and reconciliation as the pillars of the process.¹⁶

The traditional approaches to conflict resolution in Africa are more inclusive and community based and as such are endowed with valuable insights that can inform the rebuilding of social trust and the restoration of the conditions for communal coexistence which in turn provides a good basis for conflict resolution.

¹⁶ Examples in this regard include the Mato Oput in northern Uganda, Kgotla in Botswana and the Ubuntu system which is practiced by many communities in East and Southern Africa among others.

The indigenous approaches are not without shortfalls. The shortfalls in this regard include; the socio-cultural environment upon which they depend may be swept away by civil war and broader global social change to the extent that they can no longer operate, the tendency of some methods to stamp on social activism and innovation, reinforcing existing power holders and conservative practices, open only to men or emphasis on social conformity and the importance of power remaining in the hands of the chiefly classes and functioning only at the very low level which thus restricts their national relevance.¹⁷

In view of these limitations, the indigenous approaches to conflict resolution in Africa do not work well at the civil level since for them to be effective require a number of precipitants including a secure environment and community acceptance. The indigenous conflict resolution approaches in Africa cannot terminate violence in the long term, have a limited sphere of applicability, are only geared towards the preservation of the old good order, may contradict universal standards of human rights and are open to abuse. However, their importance lies in how they aid to achieve peace through forgiveness, healing, reconciliation and restorative justice (Murithi, 2008:16). In this context, they can be able to contribute to peacebuilding activities if hybridised with western models in the areas of interdependence and rule of law which eventually can lead to the attainment of liberal peace as advanced in the Liberal peace theory.

2.2.3.1 Modern conflict resolution approach in the African context

The modern conflict resolution approach in Africa should basically be perceived as that practiced in the international system since most of the countries had been colonised by western countries who use the approach. Olowu (1994:6), however, argues that due to the nature and character of the African state which basically is premised on the legacy of the colonial state, conflict prevention, settlement, management and resolution have been problematic.¹⁸

¹⁷ Darby and MacGinty, 2008:122.

¹⁸ Legacy of the colonial state in Africa is perceived as the weak, vertical and horizontal integration of the African state, the dominance of power rather than authority and the low level of government accountability.

Most recent conflicts in Africa have been insurgencies and civil wars whereby contestation of territorial and juridical sovereignty mostly takes the form of separatist campaigns (Omeje, 2008:75). Most of the major conflicts in Africa are state centred, implying that the conflicts tend to challenge the sovereignty of the state (in both territorial and juridical terms) or the legal and the moral authority of the governments in power caused by the legacies of the colonial state which then require managing and resolving.¹⁹ The Sudan and the South Sudan case before their separation is a model case on this aspect.

Management approaches in these conflicts have involved either conflict control through military reprisal, elite co-optation and the use of Regional Economic Communities (RECs) coupled with the use of eminent persons who use a mix of diplomacy tracks on the part of conflict resolution (Francis, 2008:81).

The practice of trying to control conflict through military reprisals and suppression has at most times always accentuated conflict as most African opposition groups have increasingly proved defiant to the state's intimidation and authoritarian control especially when the protests are informed by legitimate grievances and acts of injustice on the part of principal state officials (Omeje:2008:82). This suggests that the trend of using military reprisals to oppress the opposition is not a good conflict management method if at all conflict has to be resolved.²⁰ In such cases the attitudes, behaviour and the conflict itself do not change and as such conflict resolution and later transformation cannot be achieved.

Elite co-optation is a method of conflict regulation and settlement that many neopatrimonial states in Africa use effectively to weaken opposition and rebuild a form of consensus aimed at more or less preserving and perpetuating the status quo (Omeje, 2008:75).²¹ Elite co-optation is an externality of the intolerance of the opposition and it is not always born out of a spirit of conciliation and consensus.

¹⁹ The causes of conflict are generally related to poor economic performance and underdevelopment, prebendal corruption, bad governance, political exclusion and marginalisation (imagined or real).

²⁰ The handling of internal conflicts by governments employing military reprisals in Senegal, Cameroun, Algeria and Nigeria are cases in point. They all failed and only exacerbated the conflicts.

²¹ Neopatrimonialism refers to the coexistence and interaction of formal and informal institutions or a widespread informal behaviour within a formal polity such as a modern state. In other words, it is a concept that systematically includes both formal and informal institutions (Cheeseman et al.2015:59).

Largely, however, the approach as an instrument of elite politics cannot address the legitimate needs and grievances of the masses (Francis, 2008:80). The results of such actions have at times been the presence of protracted and intractable conflicts in the states involved with the practice. The north-south Sudan conflict to an extent can be perceived in this light regarding some of the dilemmas that the conflict parties faced/are facing.

The use of Regional Economic Communities (RECs) is a third party intervention approach which is used to manage and resolve conflicts against a background of the debates on the roles of local, national and international actors in conflict resolution and post conflict strategies. Nhema and Zeleza (2008:3) state that there is a new realisation in Africa that while the role of external actors is indeed laudable, Africa will have to rely increasingly on its own framework of its sub-regional groupings-the RECs.

The use of RECs with IGAD and its role in the Sudan conflict as a case in point may have gained ground from this background and a stance by the African states to have African solutions to African problems. Ideological and structural inadequacies within the RECs, financial constraints, lack of will and political commitment on the part of the states, external dependence (especially in terms of logistical resources) setback the well-articulated objectives of the RECs and their capacity in handling conflict resolution processes (Nhema, 2008:5). This position weakens the positive perception of the use of the RECs as part of conflict resolution in Africa.

The intervention methods used by the RECs are varied and mixed and range from negotiation, arbitration to mediation, peacekeeping, humanitarian support, peacebuilding and preventive diplomacy. The choice of a method or methods is important if conflict has to at all be resolved (Francis, 2008:81). Factors that could positively or negatively affect the outcome of conflict resolution include; nature of the conflict and how well the intervener understands it, the motive and credibility of the intervener/s and their/its acceptability to the conflicting parties, the timing and suitability of the intervention methods and the role of other third party agents and how an intervener relates to them.

Galtung's ABC conflict triangle theory posits that attitudes need not to be hostile, behaviour not violent and the conflict/contradictions need to be transformed to a level of accommodation, only then can conflict be considered to be resolved. Sudan before the separation of South Sudan lacked a status quo of this kind and this may explain the dilemmas these two parties faced in regard to conflict resolution in the African modern perspective. The failure initially by Sudan as one country and later as two separate states to achieve peace relate to failure to transform the conflict as is advanced in the Liberal peace theory in the context of Liberal peace and likewise in the case of the Galtung's ABC conflict triangle theory.

2.2.4 Negotiation in conflict resolution

Negotiation is one of the methods of conflict resolution that aims at stopping violence and reaching an agreement through a joint decision-making process by parties involved in a conflict. Ramsbotham et al. (2011:187) state that negotiations have a fundamental importance in conflict resolution, most specifically in peace processes because they are the basic means by which parties search for peaceful settlements and aim to resolve their differences.

Bercovitch and Jackson (2012:20) define negotiation as any form of verbal or non-verbal communication, direct or indirect whereby parties to a conflict of interest discuss, without resort to arbitration or other judicial processes, the form of any joint action which they might take to manage a dispute between them. Ury (1993) however, alleges that negotiation is a process in which parties to a dispute discuss possible outcomes directly with each other while Ramsbotham et al. (2011:32) perceive it as a process whereby parties seek to settle or resolve their conflict.

Negotiation has many definitions but the bottom line is that negotiation is about two opposing parties sitting down together at a table to find a possible solution to their problem/s. Negotiation is also very important in that it sparks the initiation of peace processes/agreements. The negotiation of the CPA between the GOS and the SPLM/A provides a good example in this case. Parties come together in a voluntary process to manage their conflict and that the voluntary nature of the process implies that the actors may choose whether to enter into such a process to manage their

conflict or whether to accept or reject any potential solutions that may emerge from the process.

Negotiation is a conflict resolution mechanism which is anchored in the perception of those involved and that a negotiation relationship involves attempts to influence each other's perception and evaluation of the situation by using a wide variety of non-violent informational strategies.²² It is a process whereby an exchange of concessions is regarded as common even when the parties' preferences have not been completely satisfied.

Negotiations do not take place in a vacuum and as such its core elements include the parties, the issues and the context (Reimann, 2004:3). Parties in a conflict may refer to individuals, groups, organisations, nations or other systems that are represented in the process. The issues inform about what the conflict is about and how close or far removed the parties' positions are (they are not fixed or immutable and can be negotiated singly, sequentially or linked together in a package of some sort) while the context refers to the environment in which the conflict and the subsequent negotiation process takes place (Bercovitch and Jackson, 2012:22-23). The parties' part is important in regards to who should be represented at the negotiating table as part of the inclusion and exclusion criteria. The dilemmas that were/are faced by the parties in the north-south Sudan conflict involved these aspects which in due course affected negative peace and positive peace as advanced in Galtung's ABC conflict triangle theory and the Liberal peace theory.

According to Lanz (2010:275) the dynamics of inclusion and exclusion of entities in peace negotiations are based on the factor of practical requirements of the peace process which addresses the question –'does the participation of a given actor augment a chance of reaching a sustainable peace settlement?' and the factor of normative dimension of international mediation which addresses the question of - 'is the participation of a given actor consistent with the values of international mediators and sponsors of the peace negotiations?' (**See table 2.1**). The dynamics of inclusion and exclusion in negotiations thus result from the interplay between these two factors.

²² This may involve making demands, threats, concessions and promises (Bercovitch and Jackson, 2012:21).

Table 2.1: Factors of inclusion and exclusion in peace mediation /negotiations

	Factors of inclusion	Factors of exclusion
International norms	<ul style="list-style-type: none">-Democratic peace: include broad segments of society so as to foster democratic culture.-Peaceful civil society: include civil society actors so as to build popular support for peace.	<ul style="list-style-type: none">-Global justice: exclude alleged perpetrators of mass atrocities to ensure their accountability.-War on terror: exclude terrorist groups as a means of de-legitimization
Practical requirements	<ul style="list-style-type: none">-Realpolitik: include the most powerful military actors who could undermine peace.-Implementation perspective: Include non-military actors whose support is crucial to consolidate peace in the long run.	<ul style="list-style-type: none">-Keep it simple: exclude actors that unnecessarily complicate peace negotiations.-Spoilers: exclude intransigent hardliners who seek to undermine a peace process.

Source: Lanz, D. (2010:282).

The most comfortable situation for mediators is when practical requirements and international norms are mutually reinforcing.

Stedman, (1996:341-342) states that for negotiation/s to take place, certain conditions also termed as pre-conditions must be available and that these might include; a low or decreasing probability of attaining conflict goals through violent struggle or withdrawals, a decreasing value of conflict goals relative to the direct cost of pursuing those goals and relative to other goals, a set of common or compatible interests between the parties or at least the possibility of settlement offering mutual advantage over the continued conflict and the flexibility by each leadership to consider negotiation.

Negotiations in most cases emerge from specific situations and that the core elements and the pre-conditions are important in order for negotiation as a method of conflict resolution to take place. Research indicates that the GOS and the SPLM/A had realised that the conflict between them could not be ended with a military victory by either side as war fatigue had become evident on both sides (Iyob and Khadiyagala, 2006:119-121). Hence the two parties decided to accept negotiation with a view to end their conflict which in essence was a direct confirmation of the importance of the core elements/pre-conditions for negotiations to take place.

Scholars involved in the discipline of negotiation differ in their approaches to the negotiation process but along the way converge on the processes and the articulation of the required outcomes. Ury (1993:24) includes interest based, rights based and power based approaches to focus on the intended outcomes, Druckman (1977:45), includes puzzle solving, bargaining game, organisational management and diplomatic politics, Raifa (1982:12) includes symmetry and asymmetry prescriptions while Zartman (1982:53) includes concession exchange, behavioural and integrative approaches. Katz and Lawyer (1985:27) on the same, includes contending, withdrawal, yielding, problem solving and compromising against the lines of concern for others and concern for self.

Ramsbotham et al. (2011:38) however, categorise the negotiation approaches as either integrative or distributive. The integrative approach (positive sum) uses the objective criteria, aspires to create conditions of mutual gain, and emphasizes the importance of exchanging information between parties and group problem-solving (Lewicki et al., 2003:5).

The distributive approach, also known as “zero-sum”, competitive, or “win-lose” strategies is based on a competitive view of negotiations and as such is designed to secure the biggest slice possible of the proverbial pie for one side while leaving the other side with the smallest helping possible (Ibid:5). The various approaches to negotiation that is the integrative and the distributive approaches include most of the other approaches in them although the integrative approach is preferable since it involves a problem solving approach which also includes sharing of information by the parties.

However, integrative solutions are difficult to achieve in both inter-state and intrastate conflicts (Zartman, 1995b:74). The problem in this scenario may come from a lack of understanding by the conflicting parties who sometimes utilises the syndrome of 'them and us'. It becomes problematic to reconcile such groups and is a point which needs careful attention in negotiation. However, negotiations can use the approaches either separately or at times a combination of both but care has to be taken as the aim is to find an outcome which can be satisfying to both the conflicting parties (Ramsbotham, et al. 2011:187). Self-determination with its options of either unity or separation in the case of north and south Sudan provides a good example of an outcome from a negotiation process that used a combination of these approaches.

In negotiation, one should to understand that the negotiation can sometimes be hindered to produce a negotiated solution or a political agreement by barriers. Jeong, (2010:161) noted that obstacles to negotiation include emotional rage and cognitive rigidity while Bercovitch and Jackson (2011:28-29) include the aspects of structural, strategic, psychological, institutional and cultural as barriers. Along with these barriers, the issue of situations conducive for negotiations arises.

Other scholars have argued that the process of negotiation itself is at most times frequently accompanied by a suspension of hostilities in a form of a ceasefire while in certain circumstances the same ceasefire would also be regarded as a barrier (Zartman and Rasmussen, 2001:24). Darby and Mac Ginty (2008:64), however argue that it is also possible to present the process of negotiation not as separate from coercion but as an integral part of it. It is important to identify the different barriers that can impede a negotiation process in order to avoid failure of reaching an agreement from the process. The parties of the northern-southern Sudan conflict had a lot of differences which in this case can be referred to as barriers which require/d removing in order for the negotiation process to succeed. These also fall into the categories of the dilemmas that the two parties faced in the peace process which later fostered tensions and threats to a return to war even after the separation of South Sudan.

2.2.5 Mediation in conflict resolution

Conflict resolution attempts to involve different kinds of agencies (International organisations (IOs), states, Non-Governmental Organisations (NGOs) and individuals), address different groups (party leaders, elites, grassroots) and varies in forms, duration and purpose (Ramsbotham et al., 2011:181). All these institutions, individuals and techniques fall in the category of third party interventions in a conflict. Third party interventions employ a number of methods which include mediation, conciliation, problem solving, good offices, facilitation, adjudication and arbitration and peacekeeping (Fisher and Keashly, 1990:32). However, mediation is the most common form of third party intervention among the other methods and is a conflict resolution method.

Zartman and Touval (2007:437) views mediation as a mode of negotiation in which a third party helps parties find solutions which they cannot find themselves. Bercovitch and Jackson (2012:34), however, perceive mediation as a process of conflict management related to but distinct from the parties' own negotiations where those in conflict seek the assistance of, or accept an offer of help from an outsider (whether an individual, an organisation, a group or a state) to change their perceptions or behaviour and to do so without resorting to physical force or invoking the authority of the law.

Mediation generally comprises of parties in conflict, a mediator, process of mediation and the context of the mediation as its elements. These elements together determine the nature, quality and the effectiveness of the mediation and indicate why some efforts at mediation succeed while others fail (Ibid, 2012:35). Despite being defined in many forms, most scholars seem to agree that mediation is an assisted and facilitated negotiation. IGAD in the North-South Sudan conflict used the mediation strategy in order to negotiate the CPA.

Mediation is an informal process in which a neutral third party with no power to impose a resolution helps the disputing parties to reach a mutually acceptable settlement (Bush and Folger, 1994:43). Thus, mediation can perform a valuable role in opening up a new political space by allowing the parties to present their cases,

explore them in-depth, frame and order the discussion and question the advantages and the disadvantages of different options.

Mediation is important especially at a stage when at least some of the conflicting parties have come to accept that pursuing conflict is unlikely to achieve their goal at least before reaching the stage of accepting formal negotiations (Darby and Mac Ginty, 2008:94 and 97). The circumstances that led to the IGAD intervention in the north and south Sudan conflict provide a good example on this aspect. Thus, mediation is most likely to take place when a conflict is intractable, drawn out or complex, the parties' own conflict management efforts reach an impasse and when neither party is prepared to cooperate openly to break their stalemate.

Mediation is guided by a number of models in its execution. The models include the great power model, multi-government model and the international figures or eminent persons' model (Darby and Mac Ginty, 2008:95). In the great power model, moderators have considerable leverage on the adversaries, in the multi-government model, the intermediary action is done by a group of governments while in the international figures or eminent persons model, major international figures or eminent persons are used by utilizing their reputation and prestige. Kofi Annan and the 2007 Kenya post-elections conflict is a case in point in the context of the eminent persons' model. The IGAD framework in the Sudan CPA mediation however represented a multi-government model at work. Similarly Bercovitch and Jackson (2012:38-40) allege that mediation can be carried by individuals, states and institutions and organisations.

Mediation works better if a framework for whatever is to be negotiated is put in place in order to avoid straying from important issues and for the purposes of order during its course. The Declaration of Principles (DOPs) and the Machakos protocol in the case of the north-south Sudan peace process provide cases in point on this aspect. However, such frameworks can sometimes be a cause for peace processes to break down due to the positions of conflict parties on the issues included (Lesch, 1998:181-182).

There are a number of debates on the methods of mediation which require a clear understanding if at all mediation has to be effective. These include the utility of the

models specifically when the conflict in question takes place within the formal boundaries of one of the members of the international community – (that is a territorial state) whereby the formal government of the state is one of the parties to the conflict opposed by an ethnic or other types of insurgences and when the issues in the conflict revolve around the preservation of the unity of the state as opposed to its division or disintegration (Mitchel, 2008:96).

Folger and Bush (1994:55-58) argue that the problem at heart in such scenarios becomes the positions of the governments and International Organisations (IOs) such as UN, European Union (EU), AU and the Organisation of the American States (OAS) in the context of them becoming honest brokers.²³ These organisations may be biased and as such may not be in a position to work as expected due to issues of policies that they tend to uphold.²⁴

The representatives of the governments in the said organisations would somehow be biased as they would be in favour of the principles of continuing territorial integrity and non-interference in the internal affairs of other countries unless genocide clearly threatens. Darby and MacGinty (2008:96) affirm that the two principles raise major barriers to intermediary action even in situations where the effects of protracted social conflicts spill over borders and disrupt neighbours through raids, refugees, reinforcements, routes for arms and general mayhem.

Further intellectual and practical debate in the area is the question on the type of entry which might be appropriate to perform mediatory tasks in a conflict that is violent, protracted and dangerous to a region but which takes place within the confines of an existing state or country no matter how collapsed the former or disintegrated the latter. Other scholars have included the question of the timing of mediation, external neutrals versus inside partials as effective intermediaries and the appropriate forms of intermediary activities and their relation to the various stages of the peace process as some of the possible areas for consideration as part of the solutions to the debate (Bercovitch and Rubin, 1992:30).

²³ A person or country that tries to get other people or countries to reach an agreement or to solve a problem without getting involved with either side (an honest broker)

²⁴ African Union on the principle of non-interference in the internal affairs of a state as was articulated in the Cairo Declaration of 1964 with a view to uphold the concept of territorial sovereignty in a case in point on this.

Concepts of the hurting stalemate and the ripe moment for the purposes of entry of the mediators, the need to make a choice between the use of external neutrals versus the inside partials, using only one of them and may be mixing them and the proper handling of mediation as a process in the context of the outside neutrals and inside partials and the right timing in the context of entry resulting from the hurting stalemate and the ripe moment would assist to achieve the best in a mediation/negotiation process.

The discipline of mediation provides an opportunity to posit a better understanding as to when mediation for a conflict can be done, when it can help, appropriate mediators and the mediator role and functions. IGAD in the 2005 Sudan CPA context may have emerged and succeeded due to these factors.

IOs, governments, NGOs, and individuals all play a big role in mediation. The entities require some form of power in order for them to function well in their mediation work. Boulding (1989:22) suggests hard power/ threat power (do what one wants) and soft power divided into exchange power (associated with bargaining and compromising approaches) and integrative power (associated with transformative and long term problem solving) in which is factored “the together we can do something that is better for both of us” idea may all be useful at some points in the process of mediation. Such powers should properly be understood by all the concerned in order to reduce abuse in certain circumstances and quarters (Ramsbotham, et al., 2011:23).

The fact that third parties operate at many levels and many different sectors within and between societies adds to the complexity and confusion in how some of the parties in a conflict would apply the powers that have been articulated (Reimann, 2004:4). This problem arises from the fact that some of the roles involve the interveners (mediators) in their official capacity while others are performed in a more informal manner. If this can be checked, such problems cannot surface.

Some interveners operate at the highest levels of decision making, others on the influence given at the middle ranges of society whilst others typically at the community or grassroots level. The different levels of operating by the different cadres can create problems in the discharge of the mediator roles. The CPA mediation had involved many stakeholders who included; IGAD, IGAD Partners

Forum (IPF), AU and USA and its allies (UK, Italy and Norway). These tended to have different levels of power and differing views on how the mediation/negotiation was to be done.

Mediation as part of the third party intervention activities in the global domain is included in what is termed as multi-track diplomacy (Diamond and Mac Donald, 1996:1-2). Ramsbotham et al. (2011:23-24 and 28) posit that track-one diplomacy involves official governmental or inter-governmental representatives who may use good offices, mediation and the stick and carrot strategies to seek or force outcomes in typical win- lose scenarios.

In contrast, track two involves unofficial mediators who do not carry with them the sticks and carrots but work with parties or their constituencies to facilitate agreements and encourage the parties to see their predicament in a lose-lose situation to a win-win scenario **(see table 2.2)**. The question is what about track three diplomacy? Diamond and MacDonald, (1996:28) introduced a scenario in which emphasis is placed on the importance of indigenous resources and the local actors to undertake the roles. This approach is referred to as track-three diplomacy **(table 2.2 refers)**. This approach provides a counter force to the argument of mediation being a preserve of the western models which side-line the indigenous approaches.

Table 2:2: Track I, II and III Actors and their Strategies

	Track I	Track II	Track III
Actors involved	Political and military Leaders as mediators and/or representatives of conflict parties.	From private individuals, academics, professionals, ,civil mediation, citizens diplomacy' to international and local non-governmental organisations involved in conflict resolution	From local grassroots organisations to local and international development agencies, human rights organisations and humanitarian assistance organisations
Strategies used	Outcome-oriented: From official and coercive measures like sanctions, arbitration, power mediation to non-coercive measures like facilitation, negotiation, mediation, fact-finding missions and good offices'	Process-oriented: Non-official and non-coercive measures mainly facilitation, consultation in the form of problem-solving workshops and round table conferences	Process- and/or structure-oriented: Capacity building, trauma work, grassroots training, development and human rights work

Source: Riemann, C. (2010). Assessing the state of the art in conflict transformation. Berghof centre - <http://www.berghof-handbook.net>

The approach sounds practical but one would wonder as to where such an approach would draw its muscle from in terms of power and resources. Mediation of the CPA centred on the first approach (Young, 2012:116). In this case, complete negative peace could not be achieved and likewise, positive peace could not be realised as the social justice could not be advanced as some of the actors who could advance its course were left out.

Zartman and Touval (2007:438) present a caveat that mediation facilitates settlement of conflicts but does not ensure reconciliation or remove the root causes of conflict. For the purposes of effectiveness and continuity, mediators should be encouraged as a matter of principle to follow through on settlements that support implementation and adherence to the agreements by the parties. The caveat and the additional comment are presented with a view to bring out the weaknesses of mediation.

It is then advisable for mediators to have an understanding of these weaknesses lest all their effort would be considered a total waste of time. IGAD mediation of the CPA provides a better example on this aspect whereby due to lapses within it was not given an opportunity to oversee the implementation of the agreement and the mediation of the post referendum issues (Young, 2012:3550). What is important at the end of it all is to view mediation as assisted negotiation.

2.2.6 Peacebuilding in conflict resolution

Peacebuilding is one of the most recent methods of conflict resolution in the international community which was described officially for the first time by the former UN Secretary-General Boutros Ghali in his 'Agenda for peace document in 1992'.²⁵

Peace is perceived to represent the centre of the revolutionary development of international conflict resolution theory and practice which goes beyond the more limited objectives of conflict management as a holistic concept which aims at no less than the complete transformation of political, economic and social structures within a nation experiencing violent conflict (Bercovitch and Jackson, 2012:168). This position implies that conflict transformation is linked to the method of peacebuilding.

Thus, peacebuilding aims at restoring broken relationships, promoting reconciliation, institution building and political reform and facilitating economic transformation. Boutros- Ghali (1992:10) defines peacebuilding as action to identify and support structures which tend to strengthen and solidify peace to avoid a relapse into

²⁵ An Agenda for peace is a report written for the United Nations by Secretary-General Boutros Boutros-Ghali in 1992. In it, Boutros-Ghali responds to a request by the UN Security Council for an "analysis and recommendations" to strengthen peacemaking and peace-keeping. The document outlines the way Boutros-Ghali felt the UN should respond to conflict in the post-Cold War world.

conflict.²⁶ Paris (2004:38) perceives peacebuilding as action undertaken at the end of a civil conflict to consolidate peace and prevent a recurrence of fighting. Francis (2012:5) in a narrow perspective definition views it as programmes and intervention efforts at capacity building, state reconstruction, reconciliation and social transformation and in a broad perspective, views it as security, political, economic social, developmental and military programmes and interventions geared towards strengthening political settlements and addressing the cause of conflict.

Peacebuilding is generally about undertaking programmes designed to address the causes of conflict and the grievances of the past and to promote long term stability and justice. Additionally other actors focus on the post-conflict dimension whilst others include periods before, during and after the conflict. This is a clear translation that the area has gradually been changing due to new developments and new understanding of issues.²⁷

Fisher et al. (2000:14) in clarifying this position state that peacebuilding is not primarily concerned with conflict behaviour but attempts to address the underlying context and attitudes that give rise to violence such as unequal access to employment, discrimination, unacknowledged and unforgiven responsibility for past times prejudice, mistrust, fear and hostility between camps. Thus, peacebuilding is a low profile work that can at least in theory continue through all stages of conflict but is likely to be stronger either in later stages after settlement and a reduction of violent behaviour or in earlier stages before any open violence has occurred. Peacebuilding would flourish better in a scenario whereby the attitudes and behaviour are no longer violent and hostile in order to assist to transform the conflict structure as is articulated in the Galtung's ABC conflict triangle theory.

Bercovitch and Jackson (2012:172-173) state that despite this being the case, peacebuilding generally entails concerted action by international third parties working both in military and civilian capacity, employing a hybrid of short-to medium and long term political and development activities that are aimed at recovering from war,

²⁶ It is noted that such actions take various forms which include; demilitarization, restructuring, police and judicial reform, economic development and elections among others.

²⁷ The 1995 supplement to 'an Agenda for peace is a clear testimony of this development.

preventing a relapse into violent conflict, strengthening local capacities for peaceful conflict resolution and creating the conditions for genuine long term human security.

The institutional key assumption at the heart of peacebuilding is that violent conflict has complex and multiple causes that are rooted in the political, economic and social structure of society including intolerable poverty, inequality and relative deprivation, injustice, institutional failure, political grievances and social divisions among others. Related to this assumption is that peacebuilding assumes that the causes of these kinds of conflict are generic and therefore a universal approach or template can be applied across all cases (Curtis, 2015:2003).

This assumption implies that resolving conflict and creating durable structures of peace requires concerted efforts in order to deal with the deep structural problems. Paris (2009:42) argues that the application of a universal peacebuilding template across all cases is problematic since the current international approach is grounded in the western liberal theory which at times may not be applicable or suitable to certain non-western scenarios.

Thus, there is an underlying belief that liberal democratic tendencies as are in western developed countries preclude the possibility of violent internal conflict and for that reason fit to be applied as a one size fits all solution in areas facing conflict in order to achieve peace. However, the ideal position in this case is that peacebuilding cannot succeed without the cooperation of the people who are being helped and that lasting peace cannot be imported from the outside but that it has to be generated from within. The question would be 'could this scenario have applied to the case of the northern-southern Sudan conflict and now in the intrastate conflicts in the two states which also are contributing to the tensions and threats to a return to war between the two states?'

The orientations of the people of northern and southern Sudan at the time although in one country were/are different. People in northern Sudan were/are generally Arab and Muslim as they embrace Islam as their religion although some are Muslim but not Arab. The people of southern Sudan however had/have an African profile and

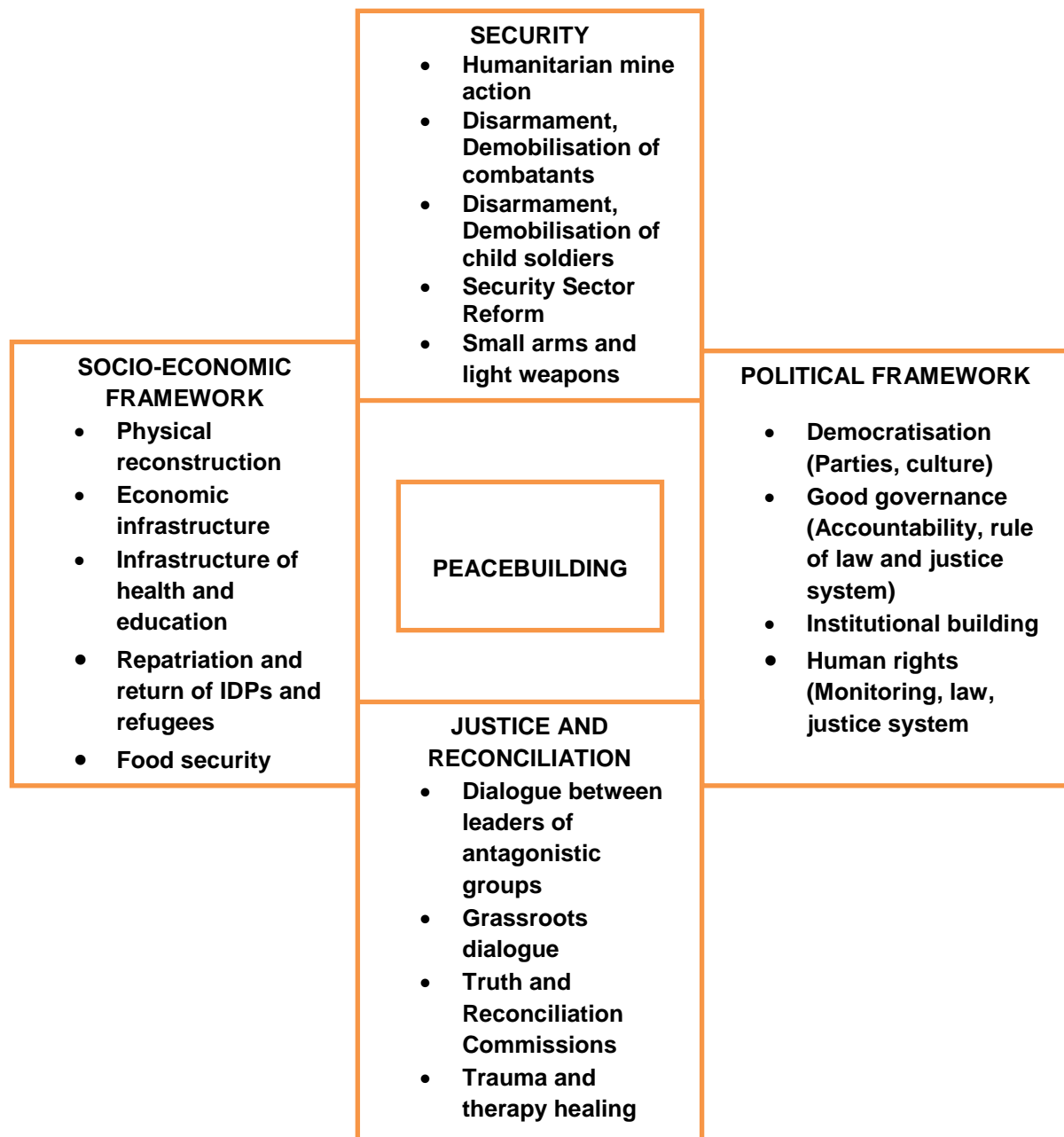
embrace either Christian or traditional beliefs²⁸. Considering this situation, peacebuilding in Sudan required incorporating the practices of the two regions with the Western conflict resolution approach model in order for peace to be achieved. In that way, attitudes, behaviour and the conflict as advanced in the Galung's ABC conflict triangle theory would may be have changed and likewise Liberal peace would have been easier to achieve as is advanced in the Liberal peace theory.

The aims and tasks of peacebuilding are important for the understanding of the concept and the outcomes of the exercise. Kumar (1997:3) includes restoration, structural reforms and institution building as some of the aims/tasks of peacebuilding. Ramsbotham et al. (1999:203), conceive the peacebuilding aims/tasks in terms of interim or short term tasks, and long term tasks across the range of sectors such as security, political, economic and social. Paris (2009:4) on the same however includes security, development, humanitarian assistance, governance and the rule of law.

An analysis of the aims/tasks as a framework for understanding and executing peacebuilding point to a consensus that peacebuilding can be summarised under four main headings which include security rehabilitation (establishing and maintaining security, law and order and security sector reforms), political rehabilitation (reconstructing political institutions and legitimate government), economic rehabilitation (emergency humanitarian assistance and long term economic reforms and restructuring) and social rehabilitation (justice, reconciliation and local capacity building **(see figure 2.4)**).

²⁸ Muslims are individuals who embrace Islam as their religion hence Muslims are part of a religious sect. Arabs on the other hand are individuals that dwell or own the Arabian or Arab regions. Thus, they form a specific internationally known nationality. They speak the Arabic (Arabian) language and can choose whatever faith or religion they plan to follow. This implies that there are Christian Arabs, Muslim Arabs or just Arabs depending on their desired orientation and likewise others are Muslim but not Arab.

Figure 2.4: The Utstein Peacebuilding Palette



Source: Smith, D. (2004). Towards a strategic framework for peacebuilding: Getting their act together. Norway: PRIO.

This literature suggests that omissions of any of the included factors in the framework constituted representing the task/aims of peacebuilding would be problematic especially in societies coming out from civil wars. Peacebuilding in

societies coming out of civil wars should thus include these aspects in order to achieve peace and avoid a relapse of conflict.

Three elements which are central to the concept of peacebuilding include: the rehabilitation, reconstruction and reconciliation of the societies that have suffered the ravages of an armed conflict; creation of security related, political and /or socio-economic mechanisms needed to build trust between the parties and to prevent the resumption of violence and an external foreign intervention to create conditions conducive to peace (David, 1999:27). Peace agreements in this regard require factoring these elements in order to advance peacebuilding to achieve peace in conflict situations.

The key assumption in relation to peacebuilding in this regard is that violent social conflict has complex and multiple causes that are rooted in the political, economic and social structures of society, including intolerable poverty, inequality and relative deprivation, justice, institutional failure, political grievance and social division among others (Bercovitch and Jackson, 2012:172). It can then be argued that these aspects require addressing if at all conflict is to be resolved and for peace to be achieved.

This position suggests that peacebuilding should then be perceived as action by international third parties working in both military and civilian capacity, employing a hybrid of short, medium and long term political development activities that are aimed at recovery from violent conflict, preventing a relapse of the same, strengthening local capacities for peaceful conflict resolution and creating the conditions for genuine long term human security.

Reconciliation and justice play a big role in peacebuilding. Omission of these two factors may spell disaster due to the fact that the attitudes and behaviours of the parties may remain hostile and violent which may not assist to resolve/transform the conflict structure.

Reconciliation is perceived as the re-establishment of friendly relations and in the case of armed conflicts; incorporates the search for truth, justice, forgiveness and accommodation between conflicting groups or people (Ramsbotham et al, 2011:247). Pankhurst (1999:240) on the same, states that reconciliation can mean

ending fighting, improving relations between states, commitment to peaceful co-existence and/or sacrificing something for the sake of compromise. This position implies that reconciliation is about former enemies setting aside past enmity and the creation of emotional space to forge a new relationship. This may imply behaviour and attitudes of the victims not being hostile and violent which in turn can lead to the resolution/transformation of a conflict.

Considering the fact that individuals/institutions at times violate human rights, there is a need that after a conflict, the perpetrators be dealt with in order to achieve justice. This calls for a justice approach to investigate and punish human rights violators in order to put back in place the moral order of the society. Transitional justice (TJ) is such an approach. TJ is a set of judicial and non-judicial measures implemented in order to redress legacies of human rights abuses. Such measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms (Bercovitch and Jackson, 2009:153).

The scenario in this case suggests that TJ seeks recognition for victims and promotion of possibilities for peace, reconciliation and democracy. However, TJ is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse. Two extremes of justice and reconciliation in this regard summarises an overview of the minimal and the complex dimensions of the two aspects²⁹. Branch (2011:15) however is critical of TJ and perceives the de-contextualization of violence and of individuals, the failure to emphasize and understand continuity after transition and the neglect of socio-economic concerns as its major problems.

Pankhurst (1999:240) argues that the concept of post-conflict justice is difficult as each party has a different idea of what would constitute a just outcome but adds that reconciliation and justice are increasingly recognised as important issues in the transition to democracy and in obtaining positive peace. It can then be contended

²⁹ First a minimal peace settlement which does not address social justice; has minimum rule of law and personal security; has no national reconciliation measures (other than leaders signing a peace agreement); has no allocation of blame for war crimes and complete impunity; 'low intensity' democracy and fragile protection of human rights. Second a complex peace accord with international support and local political agreement for longer-term provision of: processes of truth revelation, prosecution, amnesty and reconciliation; rule of law; ensuring absolute standards of human rights; facilitating widespread participation in associational life and democratic political structure (Pankhurst (1999:244).

that the objective of reconciliation and justice is to deal with the past particularly the legacy of massive human rights abuses and to lay the foundations for a peaceful and democratic future.

The perception in the context of the peacebuilding framework above is that it includes aspects which can change the attitudes, behaviour and the conflict as advanced in the Galtung ABC conflict triangle theory and likewise through the peacebuilding activities, achieve the Liberal peace status. Negative peace and positive peace would then all be possible in such a scenario. The case of the Sudan CPA in this case required giving attention to these aspects in order to achieve sustainable peace.

Peacebuilding is an evolving body of theory and practice that grew out of UN peacekeeping, conflict resolution and development (Paris, 2004:4). The available literature in this regard, however, indicate that there has been no general agreement on the examples of peacebuilding in practice and the forms in which it can take place (Chandler, 2001:12-13).

Bercovitch and Jackson (2012:177) on the argument however state that peacebuilding practice takes place in three main forms namely; fully formed comprehensive UN directed peacebuilding operations, peacekeeping operations with significant peacebuilding dimensions and post-conflict transitions and a plethora of peacebuilding policies, projects and programmes within the wider activities of a large number of international, national and non-governmental agencies. Peacebuilding is generally undertaken by the UN, the concerned nation on its own and the concerned nation supported by international Governmental Organisations (IGOs) and local NGOs. The case of Sudan in this regard fits the later scenario which it is viewed was problematic as it did not have a clear control of the other supporting agencies. This suggests that activities and their coordination were not properly sequenced and directed.

Francis (2012:11) argues that the main problem of peacebuilding in most instances has been lack of coordination and failure to include the required programmes on the recommended framework of peacebuilding. The context of the UN directed peacebuilding is that it excessively focuses on state reconstruction which usually is

to the detriment of reconciliation in that not much policy relevant thought as well as pragmatic interventions specifically target how the very process of post-war state building creates tensions, competition and conflict.

Ramsbotham and Woodhouse (1999:198) state that UN peacebuilding adopts a state-centric top-down approach that neglects smaller NGOs, local agents and indigenous resources. In the case of the go it alone government peacebuilding, due to prejudices developed during the conflict, fails to reach out to other parties which in the end does not assist to build the required peace, political dimensions (to the detriment of economic and particularly psychological aspects of peacebuilding) and the prevention of a return to conflict.

Activities such as societal reconstruction, peace education, conflict resolution training and local capacity building are given low priority in the overall programme coupled with failing to work with local partners particularly elements of the civil society committed to peacebuilding in the case of the UN and failure to take on board the justice and reconciliation aspect in the case of national governments. The justice and reconciliation aspect in the peacebuilding framework in this regard should be viewed as key while at the same time not neglecting the other areas of the framework.

Peacebuilding is faced with a number of challenges that eventually cascade into the major debates on its practice. Bercovitch and Jackson (2012:179-182), on this aspect state that challenges of peacebuilding include conceptual, theoretical, normative, political and practical aspects. Paris (2009:26) on the same states that the debates about peacebuilding focus on a wide range of controversies such as the impact and the legitimacy of promoting liberal democracy and market economies in conflict prone societies, the nature of the state and state building in many regions of the developing world and broader questions about power threats to peace and security intervention and hegemony in international relations.

The one size fits all approach, imposition of economic structures which may sometimes create poverty and relative deprivation on the locals, peacebuilding principles coming into conflict with practice, timeframe for the peacebuilding process, shifting of interests by the sponsors and coordination among others are perceived to

be some of the major challenges of peacebuilding (Paris, 2004:231). The failure to come up with clear positions on these issues is fertile ground for total failure of the concept and that these debates underscore the problems that peacebuilding as one of the methods of conflict resolution encounters.

Peacebuilding, however, is a very important enterprise which should have both top down and bottom up approaches as a reflection of hybridity and attempt to deal with all the areas which appear in its framework of action (tasks/aims). MacGinty (2011:1) perceives hybridity as both a process and a condition of interaction between actors and practices which can assist to achieve positive peace.

The one size fits all approach, imposition of economic and political prescriptions, coordination problems and the focusing on state reconstruction other than justice and reconciliation require critical attention if conflict resolution has to have meaning in conflict situations (Francis:2012:5). Richmond (2011:17) in supporting these positions advances the concept of hybridity and states that there should be hybridity in peacebuilding which should represent both the capacity of international liberal and local peacebuilding actors and projects to engage with each other which should perhaps be to the benefit of the local version of peace.

2.3 Peace agreements conceptualised

Peace agreements originate from a perspective in which societies/entities in conflict situations wish to manage and eventually resolve their incompatibilities in order to achieve peace. Peace agreements are basically conflict settlements meaning that they involve conflict parties agreeing on conflict issues that often involve a compromise or some concessions from them. In this case, although the settlement may suggest finality, the conflict attitudes and underlying structural contradictions may not have been addressed (Ramsbotham, et al., 2011:31).

In view of Galtung's definitions of peace, peace agreements represent negative peace as they are meant to remove violence but require other processes in order for societies to achieve positive peace. The processes of mediation and negotiation as the methods of conflict resolution by which agreements are reached seek to de-escalate conflict with at least some formality (Dietz, et al., 2011:11). The Sudan CPA which had in it six protocols should then be viewed in this light. The question is 'to

what extent did the CPA work and in that context why are there still significant problems between north and south Sudan?' Peace agreements have many definitions and in that context there are many difficulties in trying to define a peace agreement (Wallensteen 2007:76).

UN peacemaker (2006:4) defines peace agreements as contracts intended to end a violent conflict or to significantly transform a conflict so that it can be more constructively addressed. Wallensteen (2007:75) defines them as signed treaties that regulate (resolve or find a process for) the incompatibility, are concluded between the warring parties and put an end to conflict behaviour. Darby and MacGinty (2008:193) drawing upon the above articulations, define them as political documents agreed upon by conflicting parties to resolve a conflict with the capacity to have a real impact on people's lives. Mottiarr and Muvumba (2011:8) however, view peace agreements as arrangements by warring parties to explicitly regulate or resolve incompatibilities.

The definitions above translate that peace agreements are basically conflict settlement meant to indicate what has been agreed, halt the fighting to achieve negative peace and what is likely to happen thereafter to completely resolve conflict/s to achieve positive peace. Various reasons are advanced to explain the adoption of peace agreements. According to Pratt (2009:5) reasons include war fatigue, the search for durable peace, a declaration of a no winner and no loser outcome, military versus peace settlement victory and recognition of the effects of war on the social, political and cultural life of the community and ambition to be associated with a process and culture of democratisation.

Peace agreements are reached to achieve peace by trying to address the concerns of the conflicting parties. The belief is then that the Sudan CPA was authored in line with this approach hence the inclusion of the six protocols in the CPA. However, settlements do not end conflict but that they are simple arrangements to continue bargaining under consensually defined rules of interaction.

The extent of any agreement is important particularly in terms of the degree to which it deals with the constitutional, territorial and security that lie at the core of a conflict otherwise it can merely be concerned with the manifestations of the conflict (Darby and Mac Ginty, 2008: 199). Within the context of this assertion, a debate has ensued

in the field as to whether it is prudent to stretch the limit of peace accords to cultural and economic issues that define the development aspect of conflicts. This argument has appeared docile but deeper thoughts may necessitate their inclusion as it is viewed that there non-inclusion may not assist to resolve conflicts.

Agreements, however, require that they be matched with the problems of the conflict at hand. It may then be for this reason that the phases/ stages of the peace process also become anchored with what the parties to the conflict aspire for. Sisk (2008:198) states that settlements in internal conflicts reflect the convergence point of the parties at the negotiating table among their preferences for new rules, structures or institutions to constitute the post-war peace.

Waterman (1991:292) argues that civil wars are conflicts over political order and settlements in them entail the re-creation of the conditions for a viable common political order and as such peace agreements should be viewed as conflict settlement and not conflict resolution as they are just part of the process of resolving a conflict. Darby and MacGinty (2008:199) state that peace agreements do not end wars/conflicts but simply allow for the continuation of bargaining under consensually defined rules of interaction.

There are various types of agreements that can be reached during a peace process and can all sometimes be referred to as peace agreements. Stedman et al. (2002:12) states that each type of agreement has a distinct purpose and as such serves a value in itself towards building positive momentum for a final settlement.

According to Hampson (1996:76), types of agreements include cessation of hostilities/ceasefire agreements, pre-negotiation agreements, interim or preliminary agreements, implementation agreements, comprehensive and framework agreements. Bell (2000:19) in her approach states that peace agreements at the different stages of a conflict in a peace process include; pre-negotiation agreements, framework or substantive agreements and implementation/or renegotiation agreements. The UN Peacemaker data bank (2006) agrees with Bell (2000) in their categorization of agreements but adds cessation of hostilities or ceasefire agreement on the list.

These categories can be confusing and as such require a clear understanding about what they mean and stand for. The understanding should be that different stages of peace processes tend to have particular types of agreements hence the many terms all referred to as peace agreements. The Sudan case provides a good example in this context. Different agreements were reached but in the end all were referred finally together as a CPA.

Agreements reached may be partial or full (Bell, 2006:379). Partial agreements are those agreements reached where it is not possible for all parties to converge on resolving the conflict at the same time or the parties cannot address all the issues at the same time. In contrast full agreements are the end result of an agreement combined with the necessary implementation agreements (Bell, 2000:21).

Thus, peace agreements are not easily distinguished, as their content may sometimes overlap. Wallensteen and Sollenberg (1997:99) argue that not all types of agreements are needed for each conflict. Some processes may have step-by-step agreements that lead towards a comprehensive settlement while other peace processes may seek to negotiate one agreement comprehensively at a time. The CPA should then be viewed in the former context.

Framework/ substantive agreements/ comprehensive agreements are terms which at most times are confused and used interchangeably as conflict settlement in the discipline of conflict resolution (Wallensteen and Sollenberg, 1997:100). UN Peacemaker (2006:3) views framework agreements as agreements that broadly agree on the principles and agenda upon which the substantive issues will be negotiated usually accompanied by protracted negotiations that result in annexures that contain the negotiated details on substantive issues, or are a series of subsequent agreements that are sometimes collectively known as comprehensive agreements which are meant to address the substance of the underlying issues of a dispute. Their conclusion is often marked by a handshake, signifying a historical moment that ends a long standing conflict and that they seek to find the common ground between the interests and needs of the parties to the conflict, and resolve the substantive issues in dispute.

The signing of the CPA in 2005 is a good example whereby Garang (south Sudan) and Taha (north Sudan) shook each other's hands (Collins, 2008:271). The definition tends to use 'issues' to define the agreement. The Uppsala Conflict Data Program (2008:2) however defines a CPA as one signed by all parties regulating or resolving the incompatibility. From the definition, the institution tends to focus on the parties involved in negotiations in determining the nature or the comprehensiveness of a peace agreement.

Others view comprehensive agreements as those signed by the major contending parties ending inter and intra-state conflicts (USIP, 2008:4). While not offering a clear definition per se, its digital collection of peace agreements contains a parties' bias view. Bell (2006:377) views substantive/framework as agreements which aim at sustaining cease-fires, provide a framework for governance designed to address the root causes of the conflict and thus to halt the violence more permanently and that they are usually public and formally recorded in written signed form and include international participants. They establish or confirm mechanisms for demilitarization and demobilization intended to end military violence by linking them to new constitutional structures addressing governance, elections, and legal and human rights institutions. Similarly, at times they build up consensus on issue by issue basis in a set of agreements that are ultimately brought together or ratified by a comprehensive final agreement (Ibid:2006:378).

UN peacemaker (2006:3) states that peace agreements are not always structured in the same way. Sometimes they are just one document consisting various chapters or discrete components. In other instances, each substantive component can be part of one comprehensive agreement or be a stand-alone agreement that is negotiated separately and during different periods of a peace process. It could then be due to this factor that other agreements are referred to as framework whilst the separate ones put together become referred to as CPA. The CPA and its protocols present a text book example in this context. Several single agreements were reached and after being lumped together were referred to as a CPA.

From the definitions, the substantive/framework agreement is the closest correlate to a comprehensive agreement since it provides a framework for governance designed

to address the root causes of the conflict and thus to halt the violence more permanently. The literature provided in this regard translates that peace agreements that are to be deemed comprehensive are defined in a number of ways and that their definition is determined by a focus of particular aspects in a peace process. How then was the Sudan CPA of 2005 perceived?

Steadman (1997:7), Licklider (2001: 701) and UPCD (2008:3) though with slight differences in their perceptions, all specify the inclusion of major parties and substantive issues in negotiations in order to produce a comprehensive agreement. The aspect of major parties is however debatable as it is viewed that other important groups of the society for example the civil society are equally important when it comes to representing the grassroots at the negotiating table. This is also in addition to a fact that if others are left out, they become spoilers who in essence can stymie the achievement of negative peace.

Hampson (1996:218), however, in his view states that a good agreement would be one that is crafted by all parties to the conflict. This is to say that if parties are excluded from negotiations and eventually an agreement formalised, or if their interests are not represented at the bargaining table, they will have a much stronger incentive to defect from the peace process and resort to violence to achieve their aims. The questions would then be “how many parties had negotiated the 2005 Sudan CPA and what type of issues were tabled in order to produce what came to be called the CPA?”

The general view should then be that a CPA is a written document produced through a process of negotiation, defined by the process and product of negotiations, not the implementation or impact of the written document since an agreement can still be comprehensive even if it does not induce a comprehensive peace. The Sudan CPA’s effectiveness or non-effectiveness and reasons as to why there are still significant problems as dilemmas of the parties may have originated from the processes it went through and the parties which were involved with its formulation.

The most important aspect which comes out significantly from the argument on the debate of the comprehensiveness of an agreement is the question of inclusiveness and substantive issues. The inclusion of parties to the conflict and substantive issues are crucial aspects in the determination of the comprehensiveness of an agreement

but at the same time the issue of inclusiveness require careful consideration for fear of creating chaos during the negotiations and spoilers later during the implementation phase of the peace process. The factors in this regard are important as they can make attitudes of the parties not to be hostile, their behaviour not to be violent and the conflict structure to be transformed as is advanced by the Galtung's ABC conflict triangle theory. Similarly, in the context of peacebuilding, through the mutual understanding of the parties positive peace modelled in the context of liberal peace as advanced in the liberal peace theory can be attained.

The success or failure of peace agreements depend on the seriousness of negotiators to sell the accord to their constituents and to deliver on any concessions or reforms agreed on. This means that if other parties are left out, the selling of the accord to the constituents of the locked out parties cannot take place and as such their attitudes and behaviour may not change. This scenario would translate the conflict not being transformed as negative peace cannot be attained which eventually affects the initiation of positive peace.

Debate about substantive issues in a comprehensive peace agreement appears to be easy but if it has to be meaningful then it needs to be accorded careful interpretation. According to UPCD (2008:5) substantive issues refer to those issues genuinely in contention and underlying the conflict specifically those that instigated the conflict. In a different view Darby and Mac Ginty, (2003: 271) perceive substantive issues as those which include bread and butter issues as part of the economic and social realm which make a real difference to the constituencies whereby without them, the process could lead to public disenchantment which can overshadow political or constitutional compromises. Issues such as constitutional or legal considerations may not necessarily be the only substantive issues since they only affect the elite and not those at the lower levels.

The substantive issues of agreements differ from conflict to conflict. The type of war, the issues in dispute and how the war is brought to an end are factors that alter the structure and substance of a peace agreement (Wallensteen and Sollenberg (1997:102). The disputed issues in intra-state wars are normally about security or territory while in the context of interstate wars ideology might be an additional factor. Some peace agreements primarily focus on arrangements to enhance security and provide clarity on territorial issues while others concentrate on rebuilding governance

mechanisms. Thus, the substances of peace agreements in each of these cases are naturally different.

What is important, however, is an understanding that extremely contentious issues are often agreed in principle by the parties involved, but the details of exactly how they will be resolved are left to be dealt with as part of confidence-building measures (Darby and Mac Ginty 2000:8). The questions in the context of the 2005 Sudan CPA, would then be what were the substantial issues and why is it that even after the agreement as settlement which allowed South Sudan to separate from North Sudan legally, there are still significant problems between the parties?

Substantial issues are a very important aspect of a CPA because without them negotiations cannot have a proper basis and that there would be nothing to concretize the aspect of comprehensiveness in a comprehensive agreement produced thereafter. Substantive issues through the negotiations form the basis of conflict resolution and transformation triggered through the aspects in the Galtung ABC theory and the Liberal peace theory.

Peace agreements are useless on their own if they cannot be implemented. Implementation is the process of carrying out a specific peace agreement. Implementation of peace agreements in this regard is very important if at all whatever was agreed on has to have meaning. Failure to move forward with implementation, specifically on the part of the government, which usually makes the most concessions, can ignite suspicion and fear that the settlement is being used as a ruse to buy time for military recovery (Stedman, 2001:7). Implementation requires full commitment of the parties in order to avoid such developments. If parties are not convinced that their minimum interests are served by the peace accord, they will seek ways to delay, obstruct and stymie the process.

Schneider (2005:322-323) in supporting this position, states that in addition to the commitment of the parties themselves, monitoring and verification usually by independent international entities provides the most effective mechanism to ensure the implementation of the accords. This is a direct translation that full and active support by the international community for the implementation of the accords has a huge determining role in the success or failure of the agreement (Steadman, 2001:21. The greater the amount of international commitment involved, the greater the likelihood that implementation would succeed. Failure to implement a peace

accord would reverse the gains made during the mediation/negotiation processes (MacGinty, 2008: 257). This would most probably setback the attainment of the liberal peace status as the parties would degenerate back to conflict. Sudan and later Sudan and South Sudan faced dilemmas in the implementation of the CPA at some point due to the lack of support and commitment on the aspect of monitoring by members of the international community. Hence, the presence of tensions and threats between them to a return to war as at some point certain aspects which could have been enforced through the monitoring process did not take place.

The challenge of peace agreements may be lack of renegotiation mechanism. According to Pratt (2009:17) peace agreements should have mechanisms for renegotiation in case of critical problems in the course of their life cycle. A lack of inclusion of such a mechanism has always been problematic specifically during the implementation phase and that as such require to be given due attention during the mediation/negotiation process of the agreement.

The bottom line of it all is that the definition of a CPA is a very challenging endeavour but at the same time important in the clarification of what it is and what constitutes it. Clarity of the definition of a CPA, its contents, parties involved in reaching the agreement and the how of its implementation would assist bring in consistency in the discourse of CPAs. This suggests that comprehensive agreements seek to find the common ground between the interests and the needs of the parties to the conflict and with time through other initiatives to resolve the substantive issues. The case of the Sudan CPA may require analysing if at all it was indeed comprehensive.

Other circles contend that the Sudan agreement was viewed as comprehensive due to the oversight which it was given by a strong international community presence which was spearheaded by America. However, this cannot be true as an agreement can only be labelled as comprehensive only if it includes the aspects of inclusiveness on the part of the parties and substantive issues to be negotiated on to settle a conflict.

The question is 'to what extent did the CPA work and why it is that there are still existing problems between North and South Sudan? This position it can be noted presents a trial to the agreement and the dilemmas that are faced by Sudan and South Sudan.

2.4 Self-determination and the options of power sharing and separation conceptualised

Peace agreements are generally the outcomes of the conflict resolution methods of mediation or negotiation reached as settlements by conflict parties to manage a conflict with a view to eventually resolve it. Sisk (2008:197) states that parties in internal conflicts face essentially two choices for the settlement of underlying conflicts – separation that is partition and power sharing which basically is unity. Essentially the two options are a way of expressing the right to self-determination by the contending parties. Parker (2000:1) alleges that the right to self-determination can be exercised either within a territory (unity) or outside a territory (separation). South Sudan could have been able to exercise its right to self-determination either with Sudan or outside it.

Lesch (1998:12) defines self-determination as the individual and the collective right to freely determine political status and freely pursue economic, social and cultural development. Williams (2011:97) in the context of international law defines self-determination as the attaining of independence of a self-defined national group. From the two definitions, self-determination is altogether a very complicated concept as it has been problematic in how it is perceived by many actors in the international system. The case of South Sudan in its quest for the right to self-determination and later its inclusion in the 2005 CPA raises questions on the discourse of the concept under the general international law and the African regional law and how it could assist to resolve the north-south Sudan conflict.

According to Lesch (1998:12), formulation of the concept passed through two phases and that the first phase stressed ethnic nationalism while the second emphasised territorial nationalism.³⁰ The first phase is linked to the multi-ethnic Ottoman, Austro-Hungarian and Russian empires disintegration during World War I (WWI) whereby the victorious powers granted the ethnic groups within the empires to express their right to self-determination through achieving political independence

³⁰ The ethnic nationalism model is guided by a view that a state should be coterminous with one self-defined ethnic group (Indonesia, Israel, and Turkey to be defined by their Javanese, Jewish and Turkic ethnic cores as an example) while in the case of the territorial ethnic model, residents in a particular territory have common allegiance to the state, irrespective of their ethnicity (Switzerland and United States of America as examples) (Lesch, 1998:6 &7).

while the second phase is limited to the decolonisation process after World War II (WWII) (Ibid:13).

Dersso (2012:1-2), states that the right to self-determination as a concept emerged after being enunciated as a principle of international law in the context of decolonisation during the 1960s and its enunciation in the 1960 UN General Assembly Declaration on the granting of independence to colonial countries and peoples, later at the enunciation of the right to self-determination under the 1970 UN General Assembly declaration on friendly relations and its inclusion in two UN covenants (International Covenant on Civil and Political rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The implications on the developments of the concept in this case translates that a section of a population of a state, as people inhabiting a particular territory or administrative entity sharing the same culture or language are entitled to some form of autonomous or self-governance status negotiated between them and the state in which they live in. Espiell (1980:60) reaffirms the 1960 UN General Assembly Declaration and adds that the right to self-determination applies to peoples under colonial rule, alien subjugation, domination or exploitation and was thus not universal.

In summary, the international law on the right to self-determination only generates at best a right to external self-determination of former colonies, where a people is oppressed and where a definable group is denied meaningful access to the government to pursue their political, economic, social and cultural development. In the three circumstances which according to the international law merit the right to self-determination, South Sudan on its demand to the right to self-determination did not qualify using the basis of a former colony since it had never been one but qualified on the other aspects of the law. This situation as can be noted presented a dilemma to both North and South Sudan.

The African regional law articulation on the concept of the right to self-determination is closely linked to the liberation of the African peoples who were under colonial domination and those who were systematically oppressed by the practice of apartheid but while confirming the concept, the Organisation for African Unity (OAU) charter defended the sovereignty and the territorial integrity of the states (Onguergouz, 1993:479).

The right to self-determination was partly understood simply as the principles of decolonization and the non-intervention in the internal affairs of each member state of the OAU in spite of the fact that some ethnic, religious or cultural groups were trapped within the new boundaries. The understanding throughout post-colonial Africa has been the preservation of the boundaries left behind by the colonial authorities as it was seen to be important for the peace and stability of the whole continent by embracing the political and legal concept of territorial integrity and sovereignty.

According to the OAU, self-determination was thus seen to mean the freedom of the totality of the people of a state to pursue own ends without external interference and imposing an obligation on the OAU and its member states to refrain from actions that threaten the territorial integrity of a state or its independent existence in addition to a concern to liberate African peoples under colonial rule and apartheid oppression.

The OAU through the Cairo declaration in 1964 introduced the principle of *Uti possidetis* with a view to prevent border wars and calls for separation or secession in the territories of its member states.³¹ The position meant that claims for the right to self-determination outside the articulated scenarios were not considered to have legitimate basis within the normative framework of the OAU.³² Thus, self-determination was generally limited to ending colonial rule and that the concept was a one-time action that would not apply to post-colonial political situations (Lesch, 1998:13).

³¹ In 1964 the Organisation of African Unity passed a resolution stating that the principle of stability of borders—the key principle of *uti possidetis*—would be applied across Africa. Most of Africa was already independent by this time, so the resolution was principally a political directive to settle disputes by treaty based on pre-existing borders rather than by resorting to force. To date, adherence to this principle has allowed African countries to avoid border wars; the notable exception, the Eritrean–Ethiopian War of 1998–2000, had its roots in secession from an independent African country rather than a conflict between two decolonized neighbours (Dersso, 2012:7). On the other hand, the colonial boundaries often did not follow ethnic lines, and this has helped lead to violent and bloody civil wars among differing ethnic groups in many post-colonial (and post-Communist) countries, including Sudan, the Democratic Republic of the Congo, Angola, Nigeria, Uganda, Georgia, Azerbaijan, Moldova and the former Yugoslavia.

³² Biafra in Nigeria and Katanga in the Democratic Republic of Congo are cases in point (Pantazopolous, 1995:17-18).

Minority groups in this regard were to, had to and must remain within the borders of existing states after the end of the colonial rule which in essence was a direct translation that the right to self-determination in the eyes of the two laws did not and does not embrace separation or secession from an independent state. The demand for the right to self-determination in the case of South Sudan arose from a historical claim that southern Sudan was not a part of Sudan and as a result of the southerners being marginalised by the Sudan governments after the country had attained independence from the British. It is against a background of the core concerns by the southerners on a number of governance issues that they decided to take up arms against the government in the two civil wars³³.

Peace agreements are settlements and within them the negotiated solutions of the substantive issues form their basis for achieving negative peace (Darby and MacGinty, 2008:4). The questions in this case would then be “how was the quest by South Sudan for the right to self-determination handled against its being viewed with ambivalence in the international community and how was the right to self-determination factored in the CPA in order to resolve the North and South Sudan conflict?”

Considering the fact that the north-south Sudan conflict had been going on for a long time it was important that a peace agreement be reached to settle the conflict and eventually resolve it. Similarly, the international community and the AU despite their reservations on the right to self-determination were to be encouraged to support the concept and its options of unity or separation in the agreement to resolve the conflict. The aim would be to achieve negative peace through the agreement and positive peace through the peacebuilding activities. Such a scenario would translate the attitudes, behaviour and the conflict being transformed as is advanced in the Galtung’s ABC conflict triangle theory and likewise through peacebuilding activities, Liberal peace being realised as espoused in the Liberal peace theory.

2.4.1 Power sharing and separation/partition

Power sharing and separation are options which come under the concept of the right to self-determination. In the context of a negotiated settlement and specifically

³³ The first civil war took place from 1955 to 1972 and the second civil took place from 1983 to 2005 (Lesch, 1998: 36) and Collins (2008:139)

regarding internal conflicts, parties to the conflict essentially face two choices – partition/separation or power sharing in situations where the right to self-determination is granted (Sisk, 2008:197). The two options are part of a concept which can be a substantive issue for consideration during mediation/negotiation processes as part of a settlement which through implementation can assist to achieve negative peace and eventually positive peace.

2.4.1.1 Power sharing

Power sharing is an option of the right to self-determination as part of conflict settlement to achieve negative peace and eventually aid to resolve and transform a conflict. Esman (2004:178) defines power sharing as an inherent accommodative set of attitudes, processes and institutions in which the art of governance becomes a matter of bargaining, conciliating and compromising the aspirations and the grievances of disgruntled communities. Sisk (2002:vii) views power sharing as practices and institutions that result in broad based governing coalitions generally inclusive of all major groups in a society, which can reconcile principles of self-determination and democracy in multi-ethnic states and principles that are often perceived at odds.

Thus, power sharing is a powerful conflict management method which can be used to end civil wars or an approach which can be applied to build peace in a post-conflict situation. It is necessary to have a clear understanding of power sharing regarding what it stands for and how it is/can be utilised as a translation of a peace agreement.

Jarstad (2006:72), in his overview points out that the term power sharing is employed in two separate strands of literature – one strand pertains to democratic theory and the other to conflict management – with the former focusing on political methods of power sharing that offer rival groups a role in the political process and primarily serve to produce function and democracy in divided societies and the later viewing the approach as a method of ending conflict and maintaining peace by focusing on territorial, military and political power sharing. The Power sharing protocol in the Sudan CPA should then be viewed to have been authored in the context of the later context with focus to make unity attractive specifically to the

Southerners. The conflict required settling, managing and later resolving and transforming within the contexts of negative and positive peace.

Sriram (2008:21) states that power sharing arrangements may include four dimensions- security, territory, politics and economics and that more than one of these aspects feature in peace negotiations and agreements. Hoddie and Hartzell (2005:86-90), perceive it to include; central power sharing, territorial power sharing, military power sharing and economic power sharing as some of the ways in which power can be shared.

The power sharing provisions as espoused by the different scholars are important as they include the important aspects which are usually at the heart of most internal conflicts. Roeder and Rothchild (2005:92) state that war is less likely to break out during the initiation phase if negotiated settlements promise to establish power sharing institutions and policies or practices that make it difficult for any one group to use state resources to the detriment of other groups. At times power sharing has been a source of further conflict between parties. Parties may not easily share power as the same power is sometimes the source of the conflict.

Power sharing has two major approaches and these include; the consociational or group building approach which relies on accommodation by group leaders at the centre and a high degree of group autonomy and the integrative approach which seeks to create incentives for moderation by political leaders on divisive themes and to enhance minority influence in majority decision making (Sisk, 1996:34&40).

Consociational approaches rely on elite accommodation and guarantees groups to protect their interests whereas the integrative approach relies on the incentives for intergroup cooperation such as electoral systems that encourage the formation of pre-election pacts among candidates or political parties across ethnic lines. The approaches are only good for the elite but do not work well for the cadres below them. This would not assist to make the attitudes of the lower cadres not to be hostile, their behaviour not to be violent and for conflict not to be transformed. Power sharing would assist to achieve negative peace but not necessarily positive peace due to the fact that it focuses on the elite and not the lower cadres.

Consociationalism relies on four basic principles (broad based or grand coalition executive, minority veto, proportionality in the allocation of civil service positions and public funds and group autonomy while the integrative approach proposes a typology of five mechanisms aimed at reducing ethnic conflicts and includes; dispersion of power often territorial, promotion of intra-ethnic competition, inducements for inter-ethnic cooperation, policies to encourage alternative social alignments and managed distribution of resources (Sisk, 2002:34 &44).

Against the background of the two approaches, the question is which approach best manages conflict? Consociationalists suggest that conflict management is best promoted by accommodation among group leaders representative of their communities through cooperative problem solving in post- election coalitions. The integrationists, however, argue that the likelihood of violent conflict is reduced more effectively by institutions and practices that create incentives for the formation of pre-election coalitions and that encourage intra-group competition (Ibid:6).

The two approaches of power sharing are conflict management approaches which seek to promote governing coalitions that are broadly inclusive of all groups in deeply divided multi-ethnic societies but approached from different perspectives. The parties of the north-south Sudan conflict needed to have a clear understanding of power sharing in order for them to make informed choices in their endeavours to end and resolve the conflict.

2.4.1.2 Separation/partition

The scenario of the Sudan conflict offers an interesting case of the concept of the right to self-determination which was included in the CPA with an option of separation for the southerners in order to settle/manage the conflict with a view to eventually resolve it against a background of intense reservations about the concept.

Partition refers to the creation of an entirely new state that enjoys full sovereignty and international recognition (Darby and Mac Ginty, 2008:197). Sambanis and Wohl (2009:82-118) define partition as a civil war outcome that results in territorial separation of a sovereign state while Samabanis (2000:445) defines it as a war outcome that involves both border adjustment and demographic changes. Kaufmann (1996:136-175) who is the main advocate of the concept of partition, perceives

partition as separations jointly decided upon by the responsible powers – either agreed between the two sides or imposed on both sides by a stronger third party.

From the various definitions advanced by the different scholars, partition to others is understood as fresh division of territory which is executed by a sovereign or a great power as it occurred at the time of decolonisation while others consider it as mere separation of the conflicting populations. Whatever is the case, the question should be “would separation as an option of the right to self-determination end and resolve a conflict?” Northern and southern Sudan needed to have a clear understanding on this as they were trying to end and resolve their conflict.

However, there is a difference between partition/separation and secession. O’Leary, (2001: 54) defines partition as a fresh border cut through at least one community’s national homeland, creating at least two separate political units under different sovereigns or authorities and secession as the dividing of territory along a previously established line of division. Secessionists usually have an established claim to a unit, either in recent or older history while those gunning for separation do not necessarily have a history of being a separate entity. The split of Eritrea from Ethiopia offers a good example of secession.

Sambanis and Wohl (2009:84) do not include population transfers in their definition while all others include it as a very important factor. There is no consensus among the pro-partition advocates as to what is the best practice on the notion. The issue of population transfers in both the successor state and the rump state is an important one in that if left unaddressed it can be a source of conflict in the case of a separation decision. How then was the issue of citizenship to be handled if southern Sudan decided to separate? A separation decision by the southerners in this regard would be a dilemma to both the parties in the context of the citizenship status of their populations living in the created states.

The international community claims that the separation option is problematic as it sets a precedent for other disgruntled groups in other countries to demand the same. Downes (2006:53), however, argues that single state solutions imposed by third party interventions when one or more of the parties prefer independence run an

increased risk of failure because they go against the preferences of the groups involved.

North and South Sudan in this regard even after separating have been involved with cases of fighting each other meaning that the option presented a trial to the agreement which brought about the separation. The question is whether the case of the Sudan and later the two Sudans confirms the fears of the international community that the partition option is not good due to the tensions and threats that may exist between the separated states.

Partition is either *de jure* whereby a new state formed from a separation is internationally recognised or *de facto* whereby there is divided sovereignty over the territory of a single internationally recognised state (Chapman and Roeder, 2007:677-691). The cases of Bangladesh, Croatia, Eritrea and South Sudan provide best examples of the *de jure* partition while the cases of Abkhazia and South Ossetia in Georgia, Turkish Republic of Northern Cyprus in Cyprus and Somaliland in Somalia provide the best examples of the *de facto* partition (Sambanis and Wohl, 2009:50).

What has become unique in this regard is that the international community has demonstrated certain ambivalence towards partition and that although it has opposed the recognition of other partitions, it has also been able to sanction them in others as can be evidenced here³⁴. Partition was part of the CPA whereby the south could only separate after a referendum. In this case a referendum was conducted in 2011 and the result was that the south chose to separate from Sudan. Since this was an internationally sanctioned activity, the separation fell into the category of a *de jure* partition. The problem is that even after a recognised and legal separation of South Sudan from Sudan, tensions and threats to a return to war still exist between them. This scenario presents a dilemma as to really what was wrong or went wrong with the CPA. The CPA was put to a trial by such developments.

There are a number of debates that have been advanced by a number of scholars on the aspect of the partition option. The question which, however, would require

³⁴ Biafra in Nigeria and Katanga in DRC were all opposed while Eritrea was allowed to secede from Ethiopia (Bamfo, 2012:21).

addressing from the arguments of the advocates would then be, “how should separation best be defined, viewed and executed? Should separation be considered just as a case of transferring populations, redrawing of borders or a complete case of independence?” These areas are of particular relevance to this study because in them comes out a clear understanding of what separations are all about as conflict management and the option of the right to self-determination concept in a settlement concerning societies that are divided. This would also assist in finding out as well if the approach augurs well with conflict resolution and transformation which aim at addressing the underlying causes of a conflict in order for it to be completely resolved.

2.5 Conclusion

The belief is that the conceptualisations of conflict resolution, peace agreements and the right to self-determination and its options of unity and separation done in this chapter gives a sound grounding about what the available literature says about peace processes which are important for the understanding of the North-South Sudan peace process which resulted in the CPA.

Resolution of a conflict implies that the deep-rooted sources of conflict are addressed whereby in the context of the conflicting parties behaviour is no longer violent, attitudes are no longer hostile and the structure of the conflict no longer exploitative as part of conflict transformation. Conflict transformation refers to the longer-term and deeper structural dimensions of conflict resolution (Bercovitch and Jackson (2012:9). The peace which develops thereafter is then deeply rooted and sustainable. Conflict resolution in this regard requires having specific approaches and methods in order for the process to be effective.

Conflict resolution approaches and its’ methods have been evolving over the time. Others have attached them to generations whilst others have simply classified them as traditional and 21st century approaches. The traditional/first generation approach is associated with state-centric conflicts while the 21st century approaches and the perspective of generations are associated with the intrastate patterns. The traditional African approaches are mostly problematic for ending violence but work better in the context of facilitating reconciliation.

Mediation, negotiation and peacebuilding are the most common methods of the conflict resolution approaches. Through the conflict resolution approaches methods, a conflict can be settled in the form of an agreement while implementation of such agreements as part of peacebuilding end up with the conflict being resolved or transformed. Absence of violence brings about negative peace while social justice through the peacebuilding method brings about positive peace.

Peace agreements are conflict settlements which indicate what has been agreed, halt the fighting and what accordingly is likely to happen thereafter to completely resolve conflict/s and bring peace. There are various types of agreements that are reached during peace processes and sometimes are all referred to as peace agreements. Peace agreements deemed to be comprehensive are defined in a number of ways and that their definition is determined by a focus of particular aspects in a peace process.

Parties to conflict and substantive issues are crucial aspects in the determination of the comprehensiveness of an agreement but at the same time the issue of inclusiveness requires careful consideration for fear of creating chaos during the negotiations and spoilers later during the implementation phase of the agreement (Bell, 2006:377). This position suggests that comprehensive agreements seek to find the common ground between the interests and the needs of the parties to conflict and with time through other initiatives to resolve the substantive issues but requires to be handled with caution in the interest of avoiding chaos.

Substantive issues in a peace agreement form the basis of the solutions advanced by the parties. These originate from the core concerns which need addressing during the mediation/negotiation process. The right to self-determination and its options of separation or unity is a case in point on this aspect.

Self-determination is a contested concept and as such is viewed with ambivalence in the international community. In regards to the options of self-determination, unity translates the concept being exercised within the territory and separation as the concept being exercised outside the territory (Parker, 2000:1).

The two options (unity and separation) are all part of conflict management and are very important in the context of achieving negative peace which through

peacebuilding activities can assist to transit to the status of positive peace. The basis of the concept of self-determination is grounded in the International law and in the African context, the African regional law.

The international law on the right to self-determination only generates at best a right to external self-determination of former colonies, where a people is oppressed and where a definable group is denied meaningful access to the government to pursue their political, economic, social and cultural development. The African regional law on the right to self-determination however is linked to the liberation of the African peoples under colonial domination and those systematically oppressed by the practice of apartheid (Dersso, 2012: 2-4). Thus self-determination is perceived differently by the international law and the African regional law positions.

Power sharing is an option of the right to self-determination as part of conflict settlement in order to achieve negative peace and eventually to assist to resolve and transform a conflict. The consociational and the integrative approaches are the two main strands of power sharing whereby the former relies on elite accommodation and the later on incentives for intergroup cooperation such as electoral systems. The part of elite accommodation is problematic in the first option in the context of resolving conflict as the grassroots are usually not consulted or given due attention.

Separation is the other option of the right to self-determination and involves the fresh division of territory which is either executed by a sovereign or a great power as it occurred at the time of colonisation/decolonisation or to separate conflicting populations (Darby and Mac Ginty, 2008:197). Separation and secession are different (O'Leary, 2001: 54) and on the same, internationally recognised separation is termed as *de jure* while the one not recognised is known as *de facto* (Chapman and Roeder, 2007:677-691). The international community has demonstrated certain ambivalence towards separation/secession and that although it has opposed the recognition of other separations it has also been able to sanction them in others. These positions create dilemmas.

Each of the concepts discussed in the chapter were crucial to and were put to test in Sudan. Likewise the concepts in this chapter it must be noted have been considered within a framework of the Galtung's ABC conflict triangle theory and the Liberal

peace theory and overall the framework will be applied to and critiqued within the context of the Sudan conflict case.

The next chapter discusses the historical perspective of the Sudan with focus on the scenarios which caused the conflict and factors that eventually led to the split of the country to become Sudan and South Sudan.

Chapter 3

3.0 Historical perspective

3.1 Introduction

The chapter examines the historical perspective of Sudan with a view to develop a clear understanding of the relationship of northern and southern Sudan against a current background of tensions and threats to a return to war. For more than two centuries, Sudan attracted an unusual level of attention beyond its borders. The reason mostly has been due to its record of violent conflicts which mostly pitied people perceived to be Arab and Islamic against those outside this designation. Historically in this case, Sudanese were categorised as either Muslims or non-Muslim and those in the Muslim categorisation also partitioned with those claiming Arab identity and those who do not (Natsios, 2012:15).

The history of Sudan is complex and long, spanning from the existence of ancient states as period before the colonial era, the colonial era itself and the post-independence era (Collins, 2008:1). The history of independent Sudan begins with the withdrawal of the British and the Egyptian rulers on 1 January 1956. Each era left behind layers of alien institutions upon the deep indigenous themes that were woven into the fabric of the Sudanese past (Ibid, 2008:1). The trail of events indicates that due to interactions that took place between people of northern and southern Sudan, there have always been dilemmas between them in terms of their relationship. This suggests that such dilemmas have characterised tensions between the people of these two areas.

This chapter discusses historical/colonial legacy, post-independence regimes (Military and civilian), the international, regional and sub-regional factors and the experiences from previous efforts to resolve the conflict.

3.2 Historical/colonial legacy

Collins (2008:1) identifies the early States of Sudan and the coming of the Arabs, the Turkiya, the Mahdiah and the Anglo-Egyptian eras or periods to have shaped and laid the foundation of the relationship of southern and northern Sudan. The perception is that these eras present the conflict in Sudan in two distinct

perspectives; the first three eras describe the period of the on-going confrontation between two cultures (African and Arab) leading to the African Arab divide; and the last era as a perspective which created the northern and the southern regions through an artificial boundary.

The area which came to be called Sudan initially was a broad land that extended through central Africa referred to as Bilad al-sudan (the land of the black people) by Arabs (Natsios, 2012:14). This situation is a direct translation that the area at the time did not have Arabs. At the time, independent kingdoms and Sultanates (Fur and Funji Sultanates and the Azande and the Shilluk Kingdoms) controlled varying amounts of territory and engaged in trade, cultural interchange and military conflict (Lesch, 1998:25). The search for Ivory, gold, later slaves and other resources during the eras of the Turkiyya, Mahdiyya and the Anglo-Egyptian Condominium aided by the northern tribes most specifically in the south, created relationship problems between the people of the two areas. Through this narrative, the dilemmas between northern and southern Sudan and later the tensions may have started to emerge from the historical injustices which resulted from prevailing relationships in the aforementioned periods.

3.2.1 The early States and the coming of the Arabs to Sudan

The early states are alleged to have existed in Sudan that is both in north and south Sudan. The most prominent of these States' kingdoms in the north were Nubia and Alwa (Holt, 1961:16-17). The existence of these states was followed by a history of Islamic conquest and Arabisation of these northern Sudan kingdoms in a gradual incremental process whereby the dominant ethnic groups of the areas intermarried with the incoming Arab immigrants, traders, religious groups and later as slave raiders (Hassan, 1967:90). Over centuries, this process produced a mixed African-Arab racial group that resembled the African peoples across the continent below the Sahara.

Kebede (1971:1) argues that through this process, by 14th century much of northern Sudan was transformed into an overwhelmingly Arabized and Islamized society. Likewise (Johnson, 2003:24) states that the intermarriages that occurred during the period, presented the formation of the Arab-Islamic identity which as time went by

became attached with assimilationist tendencies on the indigenous people which developed from a perception that the Arab-Islamic model was superior and that of the natives inferior (Ibid.2003:24-25).

What followed after this was a process of Arabization and Islamization whereby the non-Moslems were enslaved. Slavery in this case was used to classify people into a master race, comprising the Arabs and Muslims and the enslavable race comprising the Black Africans who were deemed to have no culture but could be redeemed by their adoption of Islam, the Arabic language, culture and off-course fusing their blood with the master race through marriages (Collins, 2008:8).

Woodward (1990:23) states that the interactions of the religious groups and the traders of goods and later slaves contributed to the emergence of a partially stratified society whereby in the social strata, slaves were at the bottom and that while the hierarchy emerged, social, religious and political character resulted in the creation of ethnic and sectarian identities as well. Ruay, (1994:45) states that the region now called Southern Sudan was historically not part of Bilad al Sudan (early Sudan). Wai (1981:27) on this aspect argues that this status quo was due to the fact that southern Sudan was sheltered and isolated by a series of formidable geographical barriers which made communications, social interactions, political alliances or unity impossible.

In a different perspective, the ethnicities which were and are found in South Sudan whose categories ethnically are Nilotes, Nilo-Hamites and western Sudanic were only unique to the area and not in the northern Sudan of the time (Albino, 1970:23). It is then contended that considering the fact that the location was not considered as part of northern Sudan and that its ethnicities were/are different from those of the north, southern Sudan although at the time not properly demarcated was an entity on its own and required to be identified as an independent territory. This situation may have contributed to the dilemmas which northern and southern Sudan faced which eventually might have attributed to their hostile relationship in their interactions.

3.2.2 The Turkiya (1821-1885)

The Turkiya was established by Muhammed Ali, an Albanian who facilitated the conquest of Egypt on behalf of the Ottoman Sultan of Istanbul in Turkey in 1821 (Collins, 2008:10). Johnson (2011:4) alleges that the desire of Muhammed was to make Egypt an international power in the near East and the Mediterranean and in pursuit of this goal, through his son Ismail invaded Sudan in order to gain control of valuable resources such as gold, ivory and most of all slaves which were to be used to sustain his military build-up. Slave raids in northern Sudan at the time had been common beginning from the previous centuries as part of the trans-Sahara trade which constituted the economic backbone of the Eastern Sudanic kingdoms of Sennar and Darfur (Musso, 2011:3).

A later realisation that northern Sudan could not provide enough of the required resources and forms of taxes imposed on the Arab traders and farmers, forced all these bodies to venture into southern Sudan where the resources were more plentiful. According to Alier (1991:12), the explorers, traders, soldiers and Christian missionaries made their way slowly into southern Sudan. Initially the traders (Europeans, Egyptians, Syrians, other Ottoman subjects and Northern Sudanese) came first to obtain Ivory through barter with the local people but later established own private companies in the Upper Nile and Bahr el Ghazal states and obtained resources for export through a combination of trade, slave raiding and tributes paid to them by the subjugated local people.

This state of affairs presented the beginning of hostility between the Northerners and all the foreigners and southern Sudan as the locals became subjected to intense slave raids which ended up with those captured being taken to be sold as slaves, conscripted into the military, social units being undermined, government monopoly of the Ivory trade which had been their source of cash income, payment of tax and being forced to provide labour (corvée) for infrastructure development (Collins:2008:12-13).

According to Beswick (1994: 9-47), the irony about the activities of the foreigners especially those from North Sudan and the Turkiyya was their mistreatment of non-Muslims who were enslaved without remorse. The activities in southern Sudan

eventually led to the conquest of the area and annexing it as part of Sudan and for slave trade to become a state activity which with time spread to the whole of southern Sudan, Nuba Mountains and Darfur (Beshir, 1984:13). The activities of the foreigners in southern Sudan consequently disturbed the peaceful life of southern Sudan and triggered the beginning of tensions, confusion, oppression and repression between the people of the two areas.

The background of forced annexation of southern Sudan concretizes the claim that north of Sudan and south of Sudan were separate entities which were only brought together for the convenience of exploiters. These positions indicate that the relationship of North and South Sudan got poisoned long time ago and thus forced the two areas to be hostile to each other. This translates that the attitudes, behaviour and the conflict between the Turkiyya including the people of the North and South Sudan could not be changed as is advanced in the Galtung's ABC theory and thus at the time conflict resolution could not work between the corned parties.

3.2.3 The Mahdiya (1885-1898)

Mahdiya was formed by Muhammad Ahmad bin Abdalla, who it is alleged that through visions, Prophet Muhammad chose him as a Mahdi (the guided one) to lead an army of believers to usher in a new age of Islamic justice and devotion (Natsios:2012:20). The Mahdiya in this regard was Mahdi's political movement which was a violent reaction to the foreign presence in Sudan and to the perceived corruption of Islam under the Turkiya. According to Wai (1981:30), the objectives of the Mahdiya were to remove the Egyptians out of Sudan, do away with the malpractices of a government seen as repugnant to the Islamic religion and to establish the right ways of life.

The Mahdiya army was recruited from the rural poor whose spiritual leaders were the members of the Sufi orders who were despised by the more legalistic Islam of the Al-Alzher University which was introduced by the Egyptians, slave traders whose businesses had been damaged by the westerners brought in by Ismail Pasha to suppress slave trade, the Baqqara Arab cattle herders whose livelihoods were being decimated by the confiscatory tax system and southerners who were being harassed by the Northern Arabs and the Turkiya (Johnson, 2011:6-7). The

Mahdiya in this case was a force which was organised to revenge threatened business interests and religious practices in Sudan.

Lesch (1998:28), states that the southerners at the time only cooperated with the Mahdiya Northerners in order to expel the Turkish Garrisons in their areas and eventually may be to free themselves from foreign control and the predatory raids on them. The Mahdiyya however it is noted had its own imperial agenda in southern Sudan since after the Egyptian forces were successfully driven out of Sudan, the Mahdi invaded southern Sudan and conducted ceaseless slave raids which resulted in thousands of southerners being despatched to the North at Omdurman to be sold (Wai: 1981: 27).

According to Lienhardt (1961:164-165) the southerners in general did not embrace Islam and in turn came into conflict with the Mahdists whose divine mission was to rid the world of infidels, carry their holy war to the south and with it have full scale slavery re-launched. In retrospect, although the southerners were anxious to rid themselves of the Egyptian rule, they did not want new alien masters especially slave raiders; hence their resorting to resistance though in the end with devastating consequences (Ibid: 166). The Mahdiya ended after its defeat in 1898 at the battle of Omdurman (Collins, 2008:32).

This brings to light a fact that the Mahdiyya era was no less inhumane than the Turkiya era as the brutality had left indelible scars on the feelings of the southern Sudanese people (Natsios, 2012:26). The established views which the events of the Mahdist era portray in the north-south Sudan relationship are that southerners were ill- treated and not considered as part of Sudan at the time. This scenario it can be contended played out as a contributory factor to the dilemmas on the relationship of North and South Sudan later in the process.

3.2.4 The Anglo-Egyptian Condominium -1898-1956

The Anglo-Egyptian era came into the limelight after the joint British and Egyptian force defeated the Khalifa and his Mahdi Army (Wai 1981:33). The collapse of the Mahdiya presented the British government with a dilemma as to who was to govern Sudan at the time as the conquest had been undertaken to recover former provinces in Sudan and the Suez in order to secure the upper Nile waters and to avenge the

death of Gordon, a British General who was killed by the Mahdists during the defence of Khartoum (Natsios, 2012: 24).

According to the Condominium's agreement, Britain and Egypt agreed to rule the Sudan jointly and that the agreement expressly recognised the authority of the rights to the government of the United Kingdom (UK) as a result of the conquest (Badour, 1960:84-990). The articulation of the Condominium's relationship as can be noted presented what can be called a diplomatic fiction as in the process the British became the main rulers while Egypt took a nominal position. The irony of the arrangement became more pronounced in 1924 when a British Governor General, Lee Stack was assassinated by an Egyptian nationalist and as a reaction, the British expelled all the Egyptian officials and troops from the Sudan. This state of affairs, it can be noted translated that a new and separate sovereign had been created by the British and championed through the leadership of the Governor Generals supported by British officers in Sudan.

In the context of the Sudan, British pacification of Northern Sudan was carried out easily whilst that of southern Sudan was met with a lot of resistance (Johnson, 2011:9). Natsios (2012:29) states that this was the case because the situation in Northern Sudan only involved taking over the structures which had been left by the Mahdists while in southern Sudan, the Mahdist state had virtually no control over the region outside its garrisons at Fashoda, Bor and Rejaf.

This implies that that there were no structures in southern Sudan and as such effort was required in order to establish a foot print of the Condominium government in a place where this government was not even known. Lesch (1998:3) states that the motivation for the southern resistance originated from the destruction of their social values by the Turkiya and the Mahdiya, forced labour, taxation irrespective of the individuals wealth and without provisions of equivalent return in social services and forced reduction of group freedom.

The differences in the administration takeover by the Condominium government in northern and southern Sudan may translate that the two regions were different, a fact believed to have been much clear in the minds of the inhabitants of the two areas than as may have been envisioned by the Condominium government. Collins

(2008: 35-36) states that initially after the defeat of the Mahdists, Sudan was administered by British officers from the Egyptian Army but in the new Condominium system, Northern Sudan was administered by the Sudan Political Service (SPS) while Southern Sudan was administered by contract British military officers without pension known as “Bog Barons”³⁵.

The situation created by the British in Sudan at the time it can be noted was a conscious policy that was laid down as an acceptance that the two areas were separate polities (Ibid, 2008:37). This scenario explains the later developments in the relationship of the two regions of Sudan after the British and the Egyptians had left especially in how they viewed their oneness. The northerners tended to view the southerners as their under dogs and likewise the southerners viewed their northern colleagues as their enemies. This represented a dilemma which the two regions faced in the perspective of their relationship even after the country’s independence.

The British with a view to consolidate further their footprints in both northern and southern Sudan, adopted an indirect rule approach which later was promulgated as the policy of native administration (Nastios, 2012:29). Native administration in this regard involved a thin layer of educated British administrators exercising authority through traditional tribal chiefs, Sheiks and clan elders whose influence they strengthened, cultivated and facilitated.

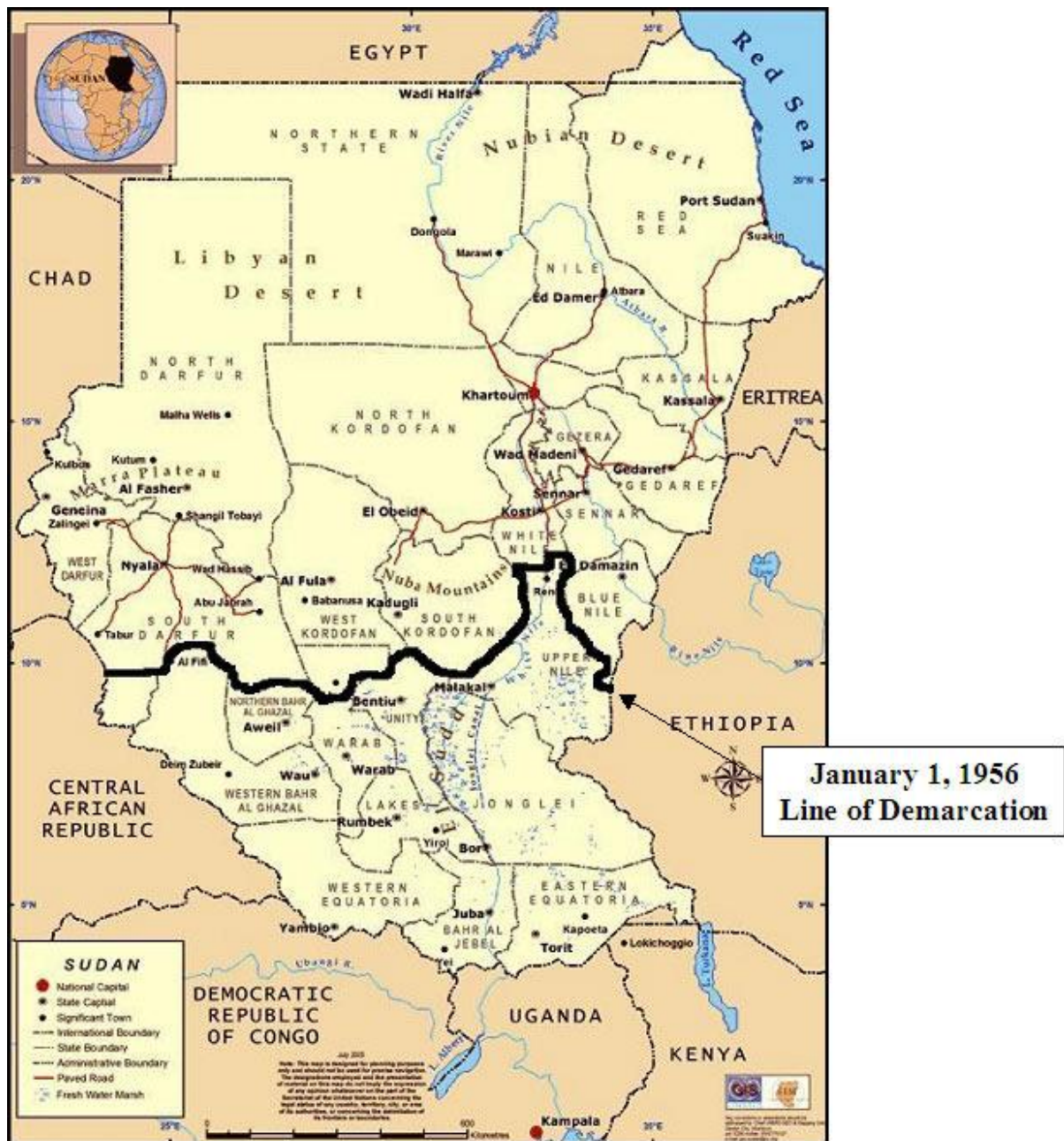
Collins (2008:38) alleges that the indirect rule approach served the British as a useful administrative device, as a political doctrine and as a religious dogma. In the context of northern Sudan, the approach was a proper channel for Sudanese nationalism, for it conferred on the fundamental notables of the Sufi orders and the Ansar greater authority to maintain the status quo against the secular opposition whilst in the case of the south, it was meant to assist the Christian missionaries to turn the tide against the encroaching Islam.³⁶

³⁵ The SPS cadres were individuals who were graduates from Oxford and Cambridge Universities while the Bog Barons were retired British officers. The difference of the ruling elite in the two areas augments the fact that the areas were perceived to be different and separate although both of them were under the British.

³⁶ Sufi orders are the Islamic followers of hard line Muslims and in the case of Sudan they related mostly with the Mahdi doctrines while the Ansar were the moderate followers of Islam which came from Egypt.

The government in this regard in 1922 promulgated the passports and permits ordinance and later in 1930 a Southern policy in order to separate the south from north Sudan (Johnson, 2011:11). The passport and the permit ordinance of 1922 served the primary aim of the colonial policy by which southern Sudan under the heading of Closed District Ordinance (CDO) became off limits to non-African Sudanese. The CDO area designated as southern Sudan with slight changes is what became the 1 January 1956 boundary of north and south Sudan **(see figure 3.1)**.

Figure 3.1 Map of Sudan -1 January 1956



Source: United Nations, Department of Peacekeeping Operations Cartographic Section, April 2007.

This scenario suggests that all the northern Arab Sudanese were to be kept out of southern Sudan where feelings of intense hatred still prevailed due to the lingering memories of the Arab slave trade (Johnson, 2011:11). Similarly, the southern Sudanese were also restricted from entering the north.

In regards to the Southern policy of 1930, basis for its formulation included the premises that Negroid Africans of the south were culturally and to some extent racially distinct from the northern Arab Sudanese and that the southern provinces would either develop eventually as a separate territorial and political entity or be integrated into what was then the British East Africa (Wai, 1981:35). The idea of including southern Sudan into the British East was however never seriously considered as there was no mention about it throughout the period of the Condominium.

Justifications for the 1922 CDO and the 1930 Southern policy included; preventing Arab slave traders from harvesting their human quarry in the south, curbing the Islamic religion from spreading in southern Sudan and encouraging a religion which was friendly to the administration, preventing resistance forces in southern Sudan from uniting with the ranks of the north to overthrow the Anglo-Egyptian administration and in relation to the assassination of Sir Lee Stack in Cairo, remove those from the south and the north who were agitating the situation (Alier, 1991:17) .

The policy was abrogated in 1946 but at the time it had enhanced a distinction between northern and southern Sudan as it was evident that the two areas had glimpsed the idea that they were separate from how the Condominium had been administering them (Lesch, 1998:32). The negotiations which were carried out in 1946 act as a pointer to the separateness of the two areas (Wai, 1981:39-40).

What became distinct out of this situation was the emphasis on the characteristics of the peoples of the areas in Sudan (the north as Arab and the south as African). The identities which were created (Arab and African) and the manner in which the Anglo-Egyptian Condominium had administered the two areas it is noted had a lot to do with the dilemmas which the two regions faced later especially after attaining independence from the British in 1956.

3.3 Post-independence regimes (Military and parliamentary)

Sudan has experienced three parliamentary and three military regimes since its independence in 1956 through a trajectory which was followed against a background of deep rooted asymmetrical relations between Sudan and southern Sudan (Sikainga, 1993:78). The reasons for the frequent changes in the ruling governments

may have been exacerbated by political problems between the north and the south. These had their roots in the historical and political developments of the country focused mostly on the nationality question and as time went by the Southern problem which at the time were not given due attention. The relationship of northern and southern Sudan was affected by the management of the successive post-independence governments (military and parliamentary) in Khartoum and the reactions of the southerners.

3.3.1 The first Parliamentary regime, 1954-1958

The first parliamentary government commenced on 9 January, 1954 which was a day when the British essentially transferred power into the hands of the Sudanese (Holt and Daly, 2000:145). The government created at the time was mostly based on the leadership of the sectarian parties (Umma Party, National Unionist Party (NUP), People's Democratic Party (PDP) and the Democratic Unionist Party (DUP).

In trying to pursue a smooth transition to the self-determination of Sudan, the 1953 Sudan Anglo-Egyptian agreement provided for three international commissions which namely were, the Governor General's commission, the election commission and the Sudanization commission (Wai, 1981:47). The task of the Sudanization commission was to complete the task of the Sudanization of the administration; the police, the defence force and any government post that might affect the freedom of the Sudanese at the time of self-determination.

According to Collins (2008: 65), the Sudanization committee's report indicated that there were 800 posts which had to be Sudanized through the work of a Public Service Commission (PSC), consisting entirely of northerners and mostly NUP members which was set up to effect the recruitment and appointments to the posts to be Sudanized. Out of the available 800 senior administrative posts, only 6 were given to the southerners and the rest got filled by the northerners (Ibid: 2008:65).

The effective exclusion of the Southerners from the senior administrative positions in the South and even in the North left profound resentment among the southerners although in response, the all Northerners' Sudanization commission claimed that the Southerners lacked seniority, experience, academic degrees and fluency in Arabic

which in other words meant that there were no qualified southerners (Albino, 1970:33).

It is contended that in the actions of the commission, the northern politicians were trying to stress the rights of the numerical majority and formal equality for all the citizens while the southern leaders were trying to stress the need to protect the minority, the need to achieve equitable opportunities and access to economic and political goods. The positions which the two groups had come to adopt on the issue were certainly a recipe for disaster in that each area started conceptualising itself as different from the other. Collins (2008: 65) claims that due to the status quo of the two parties at the time, each side felt that it was upholding a moral principle but in retrospective a polarization was being created. This occasioned dilemmas that the two regions faced in their relationship at the time and up to now.

There was a rapid increase of northern civil servants to replace British officials in southern Sudan as a result of the Sudanisation (Johnson, 2011:27). An order that followed during the same period for the southern troops of the Equatorial Corps to travel to Khartoum for independence celebrations increased the southerners' fears of northern domination and colonization and resulting from such fears, the southern soldiers' staged a mutiny in 1955 which involved the killing of northern officials and their families (Iyob and Khdiagala, 2006:80).

The mutiny was suppressed by the members of the Sudan Armed Forces (SAF) whereby some of the mutineers were killed whilst others fled into the bush. Those who fled formed a rebel movement against the government which came to be called the Anyanya in 1963 and thus it is alleged that the mutiny was the beginning of the first civil war between north and south Sudan (Poggo, 2009:71). Thus, the southerners were not happy with the government at the time the country was about to become independent.

In reaction to the Sudanization implementation, the southerners through the Liberal Party convened a conference at Juba in 1954 whereby the injustice of the Public Service Commission had occupied much of the debates and in responding to the situation, the resolution which was unanimously passed was a demand for a federal status for the South and a call upon all the southerners irrespective of their party

affiliation to be ready for sacrifices (Albino, 1970: 34). This resulted in a request for a federal status of the South being advanced to the northern politicians with an ultimatum that if their demand was not going to be granted they would not endorse the independence motion unless the south would be granted its demand. This was in addition to calling for a plebiscite in the south under the United Nations (UN) auspices in order to determine the relationship with the north (Malwal, 1981:47).

The north's fear to jeopardize the independence plans of the country, in response to the south's demands calmed them by promising to consider their demands fully after independence (Albino, 1970:36). Thus, the south was not happy with relationship with the north and it can be noted that the demands which were advanced were evidence enough that the relation of the entities was not good.

Sudan eventually achieved independence in 1956 but with a temporary constitution which was only meant to facilitate an orderly transition to independence and as such required that a permanent constitution be arranged (Johnson, 2011:30). According to Wai (1981:71) the parliament appointed a National Constitutional Commission (NCC) which was northern members heavy to work on a draft permanent constitution but that as soon as it got down to work did run into problems.

The problem that arose was that the northern members advocated for a strong centralized and unitary system of government while the southern members advocated for a federal government as per their demand before the independence. These positions manifested dilemmas between the two entities as each one of them wanted a different form of government (centralised unitary system and a federated system of government).

The irony about it all was that while the situation had stalemated between the camps, the northern group went ahead on its own and produced a draft constitution which was against what had been discussed with their southern counterparts. Their recommendations were for Sudan to become a parliamentary democratic republic, Islam as the official state religion and Arabic as the official and national language although in the end the southerners managed to block its passing (Ibid, 1981:75).

Johnson (2011: 30), states that the northerners argument on the draft constitution was the fear about the Southern stance on their demand for a federation which they viewed would be used to advance a separation agenda. In reaction to the situation the Southerners through their spokesperson said the following:

“The south has no ill intentions whatsoever towards the north: the south simply claims to run its own local affairs in a united Sudan. The South has no intention of separating from the north for had that been the case nothing on earth could have prevented the demand for separation. The claim to federate with the north is a right that the south undoubtedly possesses as a consequence of the principle of self-determination which reason and democracy grant to people”.³⁷

The south at the time despite the many differences with the north, wanted to stay within a united Sudan but under a federal system of government. The dilemma here is the demand for unity and not separation by the southerners at the time. Wai (1981:79) argues that despite the proposed policies in the draft constitution being rejected, they got included in the constitution by the short lived parliamentary regime and in due course were vigorously pursued by the succeeding military and civilian regimes which in turn did not augur well with the southerners’ aspirations.

It can be noted in this context that the Sudanization implementation, the demand for a federal status by the southerners before the independence and its rejection after independence during the deliberation of the subject by the NCC and the few numbers of the southerners who were being included in major policy decisions indicates that there was outright marginalisation of the southerners by the commission.

Equally the southerners’ intransigence to the ideas which were being advanced by the northerners created fault-lines in the north-south relations that in the end each party felt it would have been better if each was on its own. The first parliamentary government in many ways contributed to the emergence of the troubled relationship of north and south Sudan.

³⁷ Quote from a southern parties’ spokesperson’s speech in response to the Northerners claims that federation was not necessary in Sudan because if implemented, it would be used by the Southerners to further their separationist tendencies (Wai, 1981:71).

3.3.2 The military regime -1958-1964

The military regime came to power after the first parliamentary regime through a military coup which was led by General Ibrahim Abboud. The reasons for the coup included the Prime Minister at the time losing faith in the parliamentary politics, party disputes becoming more acute, the economic situation deteriorating and in view of the southern Sudan crisis, the thinking that the continuing deterioration of the situation could not be resolved by political manoeuvres but only through a military dictatorship which could employ brutal techniques to suppress the southerners' demands (Wai, 1981:76).

In order to show and instil fear to both the northerners and the southerners, General Abboud after taking over power abolished the five man supreme council, suspended the 1956 interim constitution, dissolved the parliament, banned political parties and vested the supreme authority for the legislature, executive and the judiciary in the supreme council of the Armed forces under his chairmanship as the acting President and Prime Minister (Lesch, 1998: 38),.

The actions which were taken at the time were based on fear of a possible rally by the indigenous African population pressing for a federal status which it is believed had shaken the government's foundation (Poggo, 2008:91-93 & Lesch, 1998:38-39). It is believed that the regime as a reaction was trying to make a mock show of what it was capable to do and that since the military was the only national institution in a multi- ethnic and sectarian Sudan, General Abboud and his officers naively assumed that they could achieve national integration and unity by the application of proper military discipline to improve a rigid and insensitive policy of Arabization and Islamization (Collins: 2008:72-73). The two approaches included the adoption of both an Arab identity, the Arabic language accompanied by the Islamization of non-Muslim and non-Arab African southerners.

According to Poggo (2009:108 -109), Abboud argued that cultural homogenisation was essential to Sudan's unity and believed that Christianity was an alien religion that foreign missionaries had imposed on the Southerners and through the same lines of thought expressed contempt for African religions and disparaged indigenous languages and customs. Government measures to this effect inherited the

Arabization agenda of the previous regime, opened Islamic institutes in the south, constructed mosques, changed the weekly holiday in the South from Sunday which had been the official holiday for Christians and southern employees to Friday which was a Moslem day of rest and prayer and did set up a department of religious affairs for the supervision of Islamic schools and institutes (Sanderson, 1981: 368). Poggo (2009:92) states that in addition to all this, the government launched a military operation named *Nadafa Junub* which was meant to cleanse the south of resistance activities.³⁸

To achieve these ends, courts, administration schools and Christian missionaries especially in the south were targeted as spring boards for the implementation of his policies. To this effect the institution of the missionary societies act of 1962 to regulate the activities of the missionaries followed by the regulations of the missionary societies which opened up expulsions of the missionaries from Sudan, closure of schools and use of local administration authorities to enforce and reinforce government initiatives sit very well as concrete examples of the targeting measures (Poggo: 2009:104-105). The actions of the Abboud regime in this case were basically actions to stifle the political demands of the southerners.

The existence of the 1956 constitution, parliamentary politics and the presence of the political parties in the Southern region may have helped to restrain northern Sudanese who were advocating the use of force to suppress the southern demands of federalism or separation. Things could have been worse if this was not the case (Ibid: 2009:109).

The changing of Sunday as the official resting day in the south and the imposition of the Friday in its place was viewed as the taking away of the southerners' most prized aspect of the difference between them and the north. The institutional changes in the educational system in the south with a view to promote the Arab culture and Islam were interpreted as life changing experiences with no hope (Collins, 2008:78-79). The policies of the regime were viewed to have revived the memories of the military

³⁸Nadafa Junub literally meant cleansing the South. It was a military campaign primarily aimed at destroying the sanctuaries of the Southern rebels along the borders of Sudan's neighbours. These Southern villages along the borders were burnt down and thus forced many villagers to cross into Congo, Uganda, Kenya and Ethiopia to seek refuge (Poggo: 2009:110).

and the slave raids of the Turkiyya and the Mahdiyya eras and with the pressure to convert to Islam and to adopt the Arab culture at the time might have created a distinct picture that the north and the south were different and as such required may be to live apart and not as a united entity.

The activities of the regime at the time in this context can then be seen to have contributed to the development of the poor relationship between north and south Sudan which may have contributed to the dilemmas that the two regions faced later in the process of their co-existence and eventually as separate states.

3.3.3 The second parliamentary regime (1964 -1969)

The second Parliamentary regime was ushered in after General Abboud was removed from power through what was termed as the 'October Revolution (Natsios, 2012:45).³⁹ The regime's period saw a transitional government and four coalition governments that followed, mostly comprised of the Northern traditional sectarian parties (Umma, NUP and PDP and later the Islamic Charter Front (ICF) although the Sudan Communist Party (SCP) was always on the side-lines (Holt and Daly, 2000:156). Except for the SCP, all the other parties were involved in the pursuit of identity politics bent on Arabization, Islamization and marginalisation of the Southerners.

3.3.3.1 The Transitional Government

The transitional government was formed by parties which participated in the overthrowing of the Abboud military government under the collective term 'United Front' and was led by Sir Al-Khatim al Khalifa as the Prime Minister (Alier, 1991:26).

During the tenure of the Transitional Government, a round table conference was organised in 1965 with a view to discuss the "Southern problem" and possibly reach an agreement which would satisfy the regional interests as well as the national interest of Sudan.⁴⁰ Lesch (1998: 40) states that the south was represented by three parties (Sudan African National Union (SANU) inside, SANU outside and the

³⁹ Revolts which were triggered by the Khartoum University students and eventually ended with the removal of the military regime of the General in October 1964 hence the term 'October Revolution'.

⁴⁰The Southern resistance to North's domination came to be termed as the "Southern problem" (Collins, 2008:77-78).

Southern Front (SF)) while the north was represented by all its political parties' with observation representation from seven African and Arab countries.

The Southern parties representation was divided as can be evidenced from the number of parties at the conference. Due to the division of the southern parties at the conference, they did not have a common position and as a result differently demanded a plebiscite on unity, federal status and separation of the south (Alier, 1991:29).

The North which was represented by all its political parties' with a common position of a united Sudan rejected all the proposals which were advanced by the southern parties (Ibid: 1991:29-30). This resulted in an agreement not being reached and the conference being terminated but agreed to constitute a twelve man committee (six from each side) which would draft a working paper to be considered when the conference would reconvene at a later date (Woodward, 1990:113).

The establishment of a twelve man committee manifested a failure of the conference to achieve its objectives and that it was only constituted to save the face of the government. The positions of the representatives of the southerners and the Northerners at this conference manifested the dilemmas that the two regions faced at the time which later on may have been the contributing factors of the tensions between the two regions even after the independence of South Sudan.

The observers from the African and the Arab countries noted that there were wide differences in the perception of issues by the northern and the southern camps during the conference and as such in their view felt that there was no place in the Sudan for a centralized form of government (Wai:1981:100). The positions of the Southerners representatives who were opting for separation and the observers converged and in that case the best option would have been a talk of separation.

The failure of the Committee to find a solution showed that the northerners were not interested in achieving peace with the southerners. This was evident because the northern members later went it alone on the final report.

The events of the round table conference and what followed gives an indication that there was bad blood in the relationship of north and south Sudan and in view of that

fact each side developed a dislike of the other. The round table conference's failure to resolve the Southern problem strengthened the conviction of many southerners that their grievances could only be satisfied through the barrel of the gun and the resolve behind the joining of the resistance by many southerners in the civil wars (Iyob and Khadiagala, 2006:81). This scenario presented some of the dilemmas that north and south Sudan faced which may have contributed to tensions between them in their later relations even after independence of South Sudan.

3.3.3.2 Coalition Governments and polarisation

The civilian Governments that followed after the Transitional Government were all coalition governments due to the failure of the parties to achieve absolute majorities during elections⁴¹. During these coalitions, governments competitive overbidding among them fostered the assertion of the assimilationist control model that ignored the interests of other ethnic groups and the ideological tendencies.

Given the government's parliamentary majority; democratic devices were used to achieve non democratic ends (Lesch, 1998:42). All the governments that came into power during the regime advanced and supported policies of Arabization and Islamization through the use of force which in turn further antagonised and alienated the southerners (Wai, 1981:125). For example, Sadiq al-Mahdi strongly asserted an Arab-Islamic ethnic bias when he became Prime Minister in 1966 by openly saying:

“The dominant feature of our nation is an Islamic one and its’ overpowering expression is Arab and this nation will not have its prestige and pride preserved except under an Islam revival”.⁴²

This position suggests that Sadiq believed that the southern Sudanese culture was not a culture in itself and therefore contended that the southerners had to be converted to Islam and Arabized.

⁴¹ The first coalition was Umma and NUP with Muhammed Ahmed Mahjoub as Prime minister, followed by the Umma and NUP but with Sadiq al-Mahdi as the Prime Minister after Mahjoub was thrown out with a vote of no confidence within the Umma party, the third coalition was NUP,PDP three Southern parties and an Umma breakaway party headed by Imam al-Hadi with Mahjoub as the Prime Minister after Sadiq al-Mahdi was given a vote of no confidence and the fourth coalition after the elections of 1968, DUP (a new party which originated from the merging of NUP and PDP) and the traditional wing of the Umma party with Mahjoub as the Prime Minister (Wai, 1981: 109-120).

⁴² Prime Minister Sadiq al-Mahdi speech to the constituent Assembly in October 1966(Wai, 1981:125) .

In line with Sadiq's thinking, a 1968 draft constitution termed Islam the official religion, Arabic language and Sharia to serve as the source of the civil and criminal law, banned communism and all other atheist ideologies (Johnson, 2012: 35). Lesch (1998:42) argues that the second parliamentary regime's key policies were mostly involved with the targeting and expelling of the SCP from Parliament, renewing discussion of an Islamic constitution and intensifying the war in the South which was being waged by the Anyanya.

The southerners however argued that they were not opposed to the northern identification with the Arab world and its obsession with Islam, but detested the northern disregard for their own African values and their campaign to integrate the south into the Arab fold. The fact of the matter is that southerners were neither Arabs nor Muslims, had no desire or right to be part of the Arab world and therefore it was only befitting that northern Sudanese permit them to identify themselves with Africa (Wai, 1981:129).

Daly and Sikainga (1983: 82-83) state that the conduct of politics by the northerners during the period forced the African south to intensify the warring activities. It can then be argued that through these positions, the preoccupation with the question of whether or not Sudan should adopt an Islamic constitution polarised the Arab-African relations. It is then right to assume that the northerners thought that non-Arab and non-Muslim people lacked cultural and national identities of their own as Sadiq al-Mahdi had tried to articulate during his first speech to the constituent Assembly.

The expression of the assimilationist model not surprisingly then led to the marginalised people to call for separation although through their knowledge of the international community's stance on the option of separation, made them to consider the option of federalism based on the ethnic pluralism model. The southerners in this regard faced a dilemma in the context of what would have been the best option for them (Unity or separation).

It can then be noted in the light of what the regime wanted and the position of the southerners that both parties faced dilemmas which resulted in a tense relationship.

The tense relationship at the time begins to explain the problems which the parties were experiencing later during the CPA period, after the separation and later after the independence of South Sudan from Sudan.

3.3.4 The second Military regime (1969-1985)

The second Military regime emerged after a military coup which was led by Colonel Jaafar Mohammed Numeiri and a group of officers who were frustrated in their efforts to bring about reform in the military after a realisation that neither the belligerent forces, the South Sudan Liberation Movement (SSLM) nor the government forces (SAF) would ever achieve a clear cut victory over the other during the first civil war. (Poggo, 2009: 187). Lesch (1998: 46) states that Numeiri pledged that his regime was determined to arrive at a lasting solution on the basis of the right of the Southern people to regional autonomy within a united Sudan and to that effect made a broadcast of the new policy⁴³. The negotiations of the 1972 Addis-Ababa agreement may have had its origins from what Numeiri had promised.

Numeiri gave the Southern problem a totally new approach. In this regard, a peace agreement was negotiated in 1972 in Addis-Ababa-Ethiopia and through it; a regional Self-Government Act was enacted for the southern provinces. In a gesture to show commitment to the political developments between north and south Sudan, the Addis-Ababa agreement and the regional self-government were incorporated into the permanent constitution of 1973 with attached safeguards that would prevent the northern majority from making arbitrary changes (Daly and Sikainga, 1993:27).

Through these actions, the constitution stressed the dual Arab and African identity of the Sudan, respect for Islam, Christianity and noble spiritual beliefs, the equality of all persons before the law and the prohibition of any form of discrimination on the basis of religion, race, language or gender. Thus, the Addis-Ababa agreement and the constitution articulated the ethnic pluralist model since they included both the aspects of equality before the law for all and special protection for the minorities. The actions of the regime in this regard created a dilemma especially in the context of the

⁴³ The broadcast stated that "the revolutionary government is confident and determined enough to face the existing realities. The government recognises the historic and the cultural differences between North and South Sudan and believes that the unity of the country was to be built on these objective realities. In that regard, the Southern people have the right to develop their respective cultural and traditions within a united socialist Sudan (Alier, 1991: 49).

perception the north had on the south. It is noted that for the first time the North had accepted that the people of the north and the south were equal and as such had to be treated equally as citizens of one state.

At the time, Sudan embarked on a number of development projects which included; construction of the Jonglei canal which would be used for irrigation agriculture to produce crops for sale to other countries, completion of oil prospecting and confirmation of its availability in the southern part of Western Sudan and a decision to have an oil refinery initially at Bentiu in southern Sudan but later moved to Kosti in northern Sudan (Collins, 2008:120-123). The locations of all these valuable projects were in southern Sudan and in that regard; it had become a cause for concern for the government.⁴⁴

According to Natsios (2012: 60-61), in a surprise turn of events the government promulgated Republican Order Number 1 on 5 July 1983 which broke the South into three provinces and a follow up Republican Order Number 1 in September 1983 which became commonly known as the September laws imposed Sharia law on all peoples and the provinces of Sudan. The very regime which had brought about change in the handling of the Southern problem later changed its tune and started to do its business like the previous regimes. Arabisation and Islamization was back on the government's agenda in this case.

The issues of natural resources (discovery of oil, water and land), misunderstandings on the absorption of the Anyanya, manipulation of Southern parties by Numeiri and his reconciliation with the northern political forces were at the heart of the sudden change (Collins:2008:138). The government had planned to move southern military units to the north in order to reduce the risk of a full scale civil war but through a leak this came to be known by the southerners and the military units concerned (Ibid: 2009:140).

⁴⁴ Khartoum tried to redraw the boundary between North and South Sudan in July 1980 to include the oilfields areas and the rich grazing areas of land in Upper Nile and Barhl Ghazal but the decision was rescinded after Southern students took to the streets to protest (Collins, 2008:123). It is noted against this background that Northern and Southern views over oil exploration and exploitation, land and water resources became ever more divergent and acrimonious.

Daly and Sikainga (1993: 84) state that in order to win the support of the sectarian parties, Numeiri decided to turn against the south and to abrogate the Addis-Ababa agreement. According to Collins (2008: 138), the Northerners were adamantly opposed to a single Southern region, a secular constitution, autonomy, the English language and the security arrangements whereby the southerners had an equal role in the southern command. In a move to guarantee political stability, Numeiri brought back into the government fold his previous opponents, the National Islamic Front (NIF) particularly the Muslim Brotherhood, but in return for that support they made it clear that their support was going to be contingent upon the emasculation of the Addis-Ababa agreement and his imposition of an Islamic constitution (Johnson, 2011:43).

Numeiri's authoritarianism it can be noted undermined any possibility of establishing a pluralist political system in which citizens would have equal rights. Instead of sharing power, he played the south off against the northern Islamists, favouring the former in the first half of his rule and then shifting to the later thus taking an Islamic perspective in its logical extreme by excluding non-Muslims and silencing Muslims who differed. This implies that the second military regime brought political turbulence into the political environment of the Sudanese state.

The changing of stances in the political decisions presented the dilemmas which were faced by north and south Sudan which caused tensions which have never healed and are still there even later after the separation of South Sudan. The emergence of the second civil war in Sudan was mostly based on these developments which it is believed facilitated the founding of the Sudan People's Liberation Movement/Army (SPLM/A).

3.3.5 The third Parliamentary regime

The third Parliamentary regime emerged after the overthrow of Numeiri in April, 1985 instigated by a group of professionals who later formed an organisation called the National Alliance for the Salvation of the Country (NASC) (Collins, 2008:156-157). Due to a lack of leadership, the military came in and took the lead as a governing arm called the Transitional Military Council (TMC) but after negotiations with the NASC agreed and appointed a civilian Provisional Council of Ministers (PCM).

The TMC as from its name and its civilian organisation were transitional and were to hand over power to a democratically elected government after one year (Ibid, 2008:16). This regime emerged when the second north-south Sudan civil war led by Dr John Garang was in its second year after its commencement in 1983 (Natsios, 2012:65-66). Garang, a Dinka from southern Sudan established and became the leader of the SPLM/A which was founded from military units at Bor and Pibor composed of southern Sudanese soldiers which had mutinied against the government.⁴⁵ It is noted that in order for the SPLM/A to avoid being perceived as a southern Sudan movement/party, it embraced the term “New Sudan” as the agenda for the struggle. The importance of the concept was its emphasis that the revolution was not for a separate south but for all the Sudanese with a commitment to fight racism and tribalism (Collins, 2008:143). This aspect will be discussed further later in the study⁴⁶.

The TMC actions soon after take over included; declaring a state of emergency, suspending the constitution, dissolving the Sudan Socialist Union (SSU) which was Numeiri’s political party and the National and Regional Assemblies, releasing political prisoners and disbanding the security forces (Lesch, 1998:64).

The main issues which were problematic between the TMC as a military organisation and the PCM as a civilian organisation which had similarly haunted all the previous governments of independent Sudan were the constitution, the Southern problem, Sharia and the overarching state of the Sudanese economy (Holy and Daly, 2000:182).

The TMC and the PCM in response to some of the issues, reverted to the provisional constitution of 1956, as amended in 1964, and in terms of the Southern problem preserved the autonomy of the South, reverted the regionalism imposed by Numeiri

⁴⁵ John Garang initially joined the Anyanya in the first civil war and after the Addis-Ababa agreement of 1972, was integrated into the Sudan Armed Forces in which he attained the rank of Lieutenant Colonel after his military and academic studies in the United States of America (USA). Garang and his network of Southern officers had planned the second Sudan civil war for some time. When the 105th Battalion mutinied at Bor and Pibor, on being sent to assist the government to quell the rebellion, he simply joined them and disappeared with them into Ethiopia. SPLM was formed secretly in April, 1983 but was formally pronounced on 31 July 1983 as a movement and an Army after Garang had become its commander in chief (Natsios, 2012:65-67).

⁴⁶ Garang on this aspect had declared that the democratic “New Sudan” would guarantee equality, freedom, economic and social justice and would break the monopoly of power by any one group (Lesch, 1998:88).

and as a peace gesture, invited and included the SPLM/A's leader Dr John Garang to be part of them with a view to form a kind of a national unity government (Lesch, 1998; 64). The TMC also spearheaded initiatives through the NASC to negotiate peace with the SPLM/A at Koka Dam in Ethiopia and eventually managed to sign the Koka Dam declaration proposal for National Action (Collins, 2008:161).

In terms of a military solution, the TMC concluded a Defence pact with Libya, solicited additional support and appealed for money and arms from well-wishers from the Arab states of the Gulf and other countries in order to strengthen its forces to defeat the South's rebellion (Smock, 1993: 90-91).

Thus, overall the constitution which was amended in this case did not satisfy those in the alliance and the south who wanted to revoke the September decrees and re-institute secular civil, criminal and commercial codes. The retention of the Sharia law in the constitution in this case was problematic for the north-south relationship as it was one of the reasons for the war which was being fought with the south. Surprisingly, whilst trying to achieve peace politically with the south, it concluded a defence pact with Libya and solicited financial and material support all aimed at defeating the southern rebellion which was being spearheaded by the SPLM/A.

The actions of the TMC presented a number of dilemmas on the political scene concerning the relationship of north and south Sudan. The actions were not clear on what they wanted to achieve. On one hand, appeared to forge peace but on the other, appeared to instigate war. This created tensions and dilemmas which it is viewed may explain the same in the context of the relation between Sudan and South Sudan before and after the 2005 CPA.

The TMC and the PCM effectively handed over power to a government after the elections which were held in 1986. Woodward (1990: 207) states that in every election in Sudan since 1954, there were usually no clear victors and likewise in 1986 even if the Umma Party led by Sadiq al-Mahdi secured many seats, could not form its own government and had to negotiate with the DUP to form a coalition government. It was thus difficult to form a government in Sudan which could totally be free of hardliners from the previous governments who could effectively give peace a chance.

Daly and Sikainga (1993:23-24) state that Sadiq had committed in his early days to do a number of things in order to bring peace to Sudan which included the abolition of the 1983 September Laws, stamping out corruption and re-arming the National Army among others.⁴⁷ Sadiq once he had come to power, although he had repeatedly pledged to do what he promised failed to do so due to impediments in the political system as has been articulated and as an Arab and a devout Moslem who had to advance Arabization and Islamization.⁴⁸

Natsios (2012:74-75) states that Sadiq before being elected as a Prime Minister, had written a tract on a strategy to deal with the Southern problem in which were included suggestions to foment tribal rivalries in the south and provided an argument that the Arab culture was fundamentally superior to the Southern African Christian culture and as such required that it assimilate the Arab culture. Sadiq had it can be noted had a pre-planned agenda which had focused on dealing with the Southern problem and enhancing the Arab-Islam image just as the previous regimes had done.

The military and the government armed militias had been carrying out brutal attacks on the Southerners in order to pursue the government's agenda of Arabisation and Islamisation (Collins, 2008:178). The activities of all the successive governments of Sadiq generally by design targeted the use of brutality on the southerners in order to drive them to embrace the Arab and Islamic culture.

The resort to tribalism, starvation and the indiscriminate bombings tortured the southerners greatly and as a result revealed anew the hollowness of the northern parties' nationalist pretensions as it became evident that the successive governments of Sadiq were essentially a continuity of the attitudes of the northern

⁴⁷ Other areas he had promised to deal with included, basing his rule on the combination of the National Charter of April 1985, the Charter for the Defence of Democracy of November 1985 and the Koka Dam Declaration, introducing and supporting a new Ministry of Peace and National Constitutional Affairs to thrash out the Southern problem, revitalising the economy and steadying the foreign relations.

⁴⁸ He failed to repeal the September laws and instead strengthened them using Hassan al-Turabi who he had appointed as the Attorney General, failed to honour what he had agreed with Dr Garang at an OAU summit in the spirit of the Koka Dam Declaration and declared the Declaration as flawed in the Constituent Assembly, through the government's organised, armed and funded Arab tribes along the North-South border to form militias who along with the Army raided and burned Southern villages, used government resources (weapons, money and jobs) to turn one Southern tribe against another and in an attempt to break the SPLM/A during the humanitarian crisis of 1988 – 1989, prevented food deliveries by the international agencies to Southern Sudan as part of international assistance.

Sudanese elite towards the inheritance of political independence on their part (Lesch, 1998:66).

The audit trail in this case of most of the activities during the third parliamentary regime can then be said to have served as catalysts of enmity between the northerners and the southerners which became very difficult to heal. This implies that there were a lot of dilemmas which eventually led to a tense and hostile relationship between the two parties. Reflections of the experiences of the third parliamentary regime may start to explain the hostile relationship between northern and southern Sudan before and after South Sudan's separation.

3.3.6 The third Military regime (The national Islamic front and al Bashir) 1989 to present

The emergence of the third Military regime commenced with the overthrow of the Sadiq al-Mahdi government by a bloodless coup which was orchestrated by the National Islamic Front (NIF) through a group of middle ranking military officers led by Colonel Hassan Ahmed Bashir on 30 June, 1989 (Collins, 2008:185). According to Natsios (2012:80) the military coup officers called themselves the Revolutionary Command Council (RCC) and through a radio broadcast announced the reasons for the takeover as: "Failures of the democratic government to respect international human rights and to make good foreign relations with Central Africa".

However it is noted that the reasons for the coup were to stop Sadiq from going to Addis-Ababa to participate in peace negotiations with the SPLM/A which were tipped to dilute the much favoured Arab-Islamic hegemony and its agenda. Initially the military had appeared to be on their own regarding the coup, but as time went by, it became apparent that the RCC was basically a tool of the NIF which was being led by Hassan al-Turabi (Collins, 2008:186).

O'Ballance (2000:168) states that in an extraordinary gesture of respect during the release of al-Turabi from prison all the members of the RCC took an oath of allegiance to him. The events as they transpired translated that al-Turabi had masterminded the coup that brought Bashir to power and that although he was only seen as the leader of the NIF, he remained the eminence grise of the regime – that

is not occupying any important post before 1996 but unquestionably in control of the government in full (Holt and Daly, 2000:188).

The regime after formally establishing a government, adopted the term 'Islamist' and made a number of sweeping changes on the political scene, the military and the police, the media and the constitution.⁴⁹ The most prominent of the changes was the re-introduction of the 1983 September laws and in 1998 through a botched referendum on a draft constitution, introduced a permanent constitution whereby Sharia became the sole source of the legislation (Collin, 2008: 191-224).

The refusal of the Moslem north to repeal the September laws, later enhancing them and finally coming up with a constitution whose legislation was based on Sharia was an open translation that the northerners desired to continue dominating the south in the name of Islam and the Arab culture which according to the history was the cause of the fault-line in the north-south relations. These actions it is contended cemented the southerners resolve to aspire to separate from the North although Garang's new Sudan vision contradicted this position.

In attempts to win the second civil war against the southerners, the Khartoum government resolved to the use of civilian militias (as was the case with the previous regime) and a paramilitary wing called the Popular Defence Forces (PDF) (Young, 2012:33).⁵⁰ The government used the Murahiliin militia, the PDF and at some point the Lords' Resistance Army (LRA) which had crossed over from Uganda to kill unarmed southern civilians, raping women, burning villages (which forced people to be displaced or to flee to neighbouring countries), and stealing cattle (Natsios: 2012:88).

In a similar regard, the discovery of oil and later the commencement of its extraction had become important for the economy of the country which in the initial stages of the regime was at a nadir (Lesch, 1998:93-94). The belief was that oil revenues would improve the economy and that in order to improve the revenue base, more

⁴⁹ Islamists is a term which when the RCC formally established their government adopted. It was a term which was preferred by al-Turabi to distinguish his regime and its followers and to differentiate their politics and theology from those of the secular political parties – like the communists, the Baathists and the democrats.

⁵⁰ The PDF was established as both a check on the unreliable Army and as a means to implement the NIF's Islamic civilisation project and ensure that its version of the Islamic way of life and Islamic values replace the eclectic Sufi notions of Islam favoured by most Muslim Sudanese.

expansion of oil exploration and extraction in the south where it was mostly found had to be increased.

Collins (2008:233) states that the SAF and the Baqqara Murahilin systematically depopulated parts of West Nile which was earmarked for oil wells drilling assisted by Chinese workers and the Afghan Mujahidiin through burning of villages, killing people and capturing large herds of cattle. The oil factor in this case had effects on the north and south Sudan relationship at the time and after the separation of South Sudan from the Sudan.

In the context of the north, the oil revenues assisted to modernise the military and to equip it with new weapon systems which in turn provided tactical reverses against the SPLM/A in the field whilst in the case of the south many people got killed, lost property, became homeless and, were forced to flee to neighbouring countries (Natsios, 2012:11). The irony about the situation was that some of the militias engaged in the government activities were southerners.

The oil factor it is noted changed the political and the economic aspects of the war as oil became something tangible worth fighting over. The belief was that it could change the lives of whoever controlled it but at the same time contributed to the poor relationship status of north and south Sudan which came to endure for a long time.

The situation which was created during the third military regime unlike in the context of the Garang's new Sudan concept for achieving peace exacerbated the Southerners resolve for self-determination as it was felt that the north and the south could not live in a united country together. The bottom line in this context was that any potential for a liberal or ethnic pluralist system was stifled by control structures that were enforcing the regime's assimilationist approach. The content of the Islamist ideology, the mechanisms of control and the model by which divergent voices were silenced it can be argued strained the relationship of northern and southern Sudan even though they were in one country.

3.4 The international, Regional and Sub regional factors

The dynamics of the international/ Regional and the sub-regional levels played a huge part in the developments of the northern-southern Sudan conflict. The levels of

analysis (international, regional and sub-regional) generally developed from the political, economic and the social factors which transpired during the period of the civil wars in Sudan.

According to Wakoson (1987:90-106), the nature of the conflict during the first war was exclusively regionalist in that the southern politicians specifically demanded a federal united Sudan that could guarantee South Sudan political autonomy while the Anyanya which was a resistance armed movement demanded outright separation of southern Sudan from Sudan.

It can be argued in this regard that there were contradictions in the agendas of the members of the Equatorial corps who had taken part in the Torit mutiny and the southern politicians. The political elite after realising that their aspirations could not be met by the government changed their position and joined in the cause of the members of the Equatorial corps (Ibid: 1987:107). The southern elite who reverted to supporting them in this regard fled to the neighbouring countries and through communication, the two groups in the process formed a resistance movement called "Anyanya" with an objective to separate from the north.

The formation of the Sudan African National Union (SANU), the South Sudan Provisional Government (SSPG), Nile Provisional Government (NPG) and the South Sudan Liberation Movement (SSLM) provide the trajectory of the idea of separation in the case of South Sudan during the first civil war (Poggo, 2009:123).

The southerners' resolve for separation is further noted in their negotiations of the 1972 Addis Ababa agreement where in their initial position demanded it (Collins, 2008:109). Their demand did not appeal to Emperor Haile Selassie who was the chair of the negotiations and at the time chairman of the OAU whose statutes were and are very much against separation in its member states and the positions of the World Council of Churches (WCC) and All African Churches Conference (AACC) as organisations which had arranged for the negotiations to take place (Ibid). Johnson (2011:39) states that due to the position of Emperor Haile Selassie as the OAU chairman and the fact that he was fighting his own secessionist war in Eritrea at the time; the negotiations were proposed with a united Sudan as a precondition.

The activities of the successive regimes (civilian and military) at the national level had influenced the southerners to consider self-determination and the option of separation. This translates that the relationship between south and north Sudan was not good and had been the same over a period of time. The 1972 Addis Ababa agreement outcome was not a reflection of the southerners' aspirations but a result of the influence of the regional/sub-regional factors.

The SPLM/A during the second war (1983-2005) claimed that its objective was essentially to establish a new secular, united and socialist Sudan whose vision was: "A united Sudan under a socialist system that affords democracy and human rights to all nationalities and guarantees freedom to all religions, beliefs and outlooks" (Mansour, 1987:21-23). Daly and Sikainga (1993:22) state that Ethiopia gave support to the SPLM/A during the initial period of the second war in reaction to the Khartoum government's support for its rebels- the Tigrean Peoples Liberation Front (TPLF) and the Eritrean People's Liberation Front (EPLF).

The SPLM/A's socialist orientation, the call for unity approaches and the use of 'liberation struggle' and 'Manifesto' terms from a Communism manifesto and alignment with the Leninist and Marxist ideologies explained the Ethiopian (under the Marxist DERG), Soviet Union, Cuban and Libyan support to it with the war effort as these countries also followed the same ideologies (Smock,1993:87).

According to Yilmaz (2008: 44), Communism in the Soviet Union and Eastern Europe collapsed and the Cold War came to an end between 1989 and 1991 resulting in most of the countries which had been part of the Eastern bloc countries (Soviet Union, Czechoslovakia and Yugoslavia) claiming self-determination and being recognised by the United Nations (UN). The end of the Cold War it can be contended was a dynamic which provided a basis for the UN to act in a different manner by accepting the self-determination of the countries against a background of restrictions on self-determination in its guiding statutes.

The scenario implies that there was a change at the international level regarding the issues of self-determination and the option of separation which may have been noted by the Sudan government and the SPLM/A. The Mengistu regime in Ethiopia which had been supporting the SPLA collapsed in 1991 and was replaced by the Ethiopian

People's Revolutionary Democratic Front (EPRDF) and within the period, Eritrea which was part of Ethiopia led by the Eritrea People's Liberation Front (EPLF) separated and became independent (Johnson, 1991: 89 and 136). The events in Ethiopia also led to the fate of Eritrea at the regional level. The end of the Cold War also presented a dilemma to the SPLM/A (and even the government of Khartoum) as it was forced to balance between its own stated objective of fighting for the survival of socialism and suppressing the regional aspirations for self-determination in an environment bolstered by the realisation of such an aspiration (Maundi et al, 2006: 130).

In the context of Sudan, a precedence of countries separating had been set both at the international and regional levels with the revival of self-determination which had come as a result of the end of the Cold war and the eventual collapse of the Soviet Union bloc. The state of affairs at the time meant that the claims of self-determination could no longer be overlooked in the hope of being protected by the international and regional statutes. The case of Eritrea was viewed as the incarnation of self-determination aspirations in Africa as its independence seemed to have had an impact on the sacredness of the OAU's principle of *uti possidetis*.⁵¹

O'Ballance (2000: 172) notes that the SPLMA in 1991 experienced internal problems and eventually split. The SPLM/A officers based at Nasir close to the border with Ethiopia came to conclude that the goal of a united, multi-religious Sudan was unrealistic since the Khartoum government would never compromise on its ideology. The group felt that the SPLM/A was to negotiate with Khartoum in order to gain the south's independence and let the NIF led government create a homogeneous Muslim society in the north.

Smock (1993: 128) states that three leading officers (Riek Machar, Lam Akol and Gordon Kong) announced that they had removed Garang from the leadership position of the SPLM/A because of his dictatorial behaviour, human rights abuse, his endorsement of a united Sudan, ethnic bias and failing to establish civilian administration in the large areas of the south that were under the control of the SPLM/A. Apart from the personal clashes, the real reason for the three officers'

⁵¹ Meaning territory remains in the hands of the belligerent state actually in possession at the end of a war unless otherwise provided for by treaty.

revolt was difference of opinion on whether or not the south was to separate from Sudan as already it had been made clear by those revolting that they were in favour of a black independent south Sudanese state (O'Ballance, 2000:172).

John Garang was a Dinka from the Upper Nile region, in particular the district surrounding the town of Bor, and the Dinkas were noted to have a disproportionate share of leading positions in the SPLM/A (Prunier, 1994:2). Gordon Kong and Riek Machar came from the second largest ethnic group in the southern Sudan, the Nuer while Lam Akol was a Shilluk, a people who mainly live in northern parts of the Upper Nile region. It was no coincidence that the rebel leaders drew their support mainly from the Upper Nile region and among the Nuer. Rolandsen (2005:34) states that the revolt resulted in SPLM/A splitting into two with those at Nasir and their followers being called SPLM/A Nasir and those who were with Garang at Torit as SPLM/A Torit.

The decision of the three officers to advance an idea of separation might have originated from the imminent partition of Ethiopia which eventually led to the independence of Eritrea, the de-facto division of Somalia and the breaking apart of the Soviet Union (Johnson, 2011:89-99). The SPLM/A Political Military High Command (PMHC) at Torit as a reaction to the challenge by the SPLM/A Nasir camp convened a meeting whereby for the first time the right to self-determination and eventual separation was adopted as a new agenda for the SPLM/A. SPLM Nasir in due course came to be called SPLM/A United but due to disagreements, disintegrated with the Machar forming his own South Sudan Independence Movement/Army (SSIM/A) (Roalndsen, 2005:37).

This implies that the splits were generally a result of ethnicity. Ethnicity as in chapter one is perceived as group identity, based on common cultural affiliation and a belief in a shared ancestry and a common future (Cheeseman et al., 2015:95). Ethnicity is predominantly linked to specific places, either existing or mythical, as a central pillar of identity construction. The Dinka, Nuer and Shilluk ethnic lines in this regard represent a major fault line in the intra-relationship of the peoples of South Sudan and a source of the south-south conflict which also has been problematic in the

Sudan-South Sudan relationship. This position it can be noted has been one of the dilemmas in the relationship of Sudan and South Sudan.

According to Lesch (1998:188) the shift of the initial agenda of the SPLM/A Torit from a united Sudan concept to that of separation was meant to undercut the Nasir group by acknowledging the wide yearning for independence of many southerners. This suggests that Garang may still have nursed his united Sudan agenda but feared for the SPLM/A becoming irrelevant due to the developments that had taken place internationally, regionally and domestically.

The pronouncement of the SPLM/A Nasir in favour of independence for the south and later as a reaction by the SPLM/A Torit to proclaim the same were all the influence of the international, regional and sub-regional political developments which brought back to life the self-determination option at the time. This scenario may have influenced the emergence of the right to self-determination and the option of separation during the 2005 CPA. The reasons for such a position most specifically may have originated from the troubled relationship of northern and southern Sudan.

3.5 Experiences from the previous efforts to settle/resolve the conflict

The conflict in Sudan took a very long time to be partially concluded and in its course manifested itself through two civil wars – 1955-1972 and 1983 -2005. During the course of the two wars, the parties to the conflict made some efforts to resolve the conflict. Through the efforts which were made either directly or as reactions from the efforts, the option of separation by the way of the right to self-determination at times emerged. The efforts it is to be noted in both the wars involved internal and external actors.

Muandi et al. (2006:135), states that mediation attempts by external actors were mostly stymied by the successive Sudan governments' own peace approaches of direct interparty negotiations. For external mediation, the parties to the conflict and the prospective mediators initial perceptions of the nature of the conflict in the two wars and their prescribed solutions were instrumental in discouraging the attempts and as an example in the case of Africa, the conflict was viewed in the traditional government versus rebels perspective (intrastate) which then did not merit interference by others.

Some individual African countries were sympathetic and supportive of the Anyanya and the SPLM/A, but collectively were constrained by the OAU principles of non-interference in the internal affairs of the organisation's sovereign members and the sanctity of international borders (Maundi et al. 2006: 134). Thus, neither the regionalist nor the centralist objectives of the southern Sudan rebellion could be openly supported by African governments and that any mediation attempt originating from an African country would have been interpreted as recognition of a rebel movement and be construed as unfriendly against Sudan and a direct violation of the OAU principles.

The western countries and specifically in the context of the second war saw the SPLM/A's initial socialist objectives as running counter to their policy positions especially in Africa (Rolandsen, 2005:53). A successful socialist resolution in Sudan would have put the region into the strong grip of two socialist states (Somalia and Ethiopia) and as such in the domain of the Cold war politics at the time would have been detrimental to western countries' interests in the region and even beyond. The position implies that the western countries' interests at the time therefore had to stick with the Sudan government regardless of its embarrassing policies. The opposite was true for the socialist countries in that they could not be involved in the interventions to mediate the conflict as they were perceived by the state as a major source of the conflict. This background provides a basis of the experiences by both the parties to the conflict to resolve the conflict and how in due course the right to self-determination with its options of unity or separation might have taken root.

3.5.1 The Experiences from the first civil war

The first civil war played out for a period of 17 years (1955-1972). Efforts to resolve the war during the period revolved around a solution of one Sudan or two Sudans although the Khartoum government always felt a military solution involving the rebel defeat would have been the appropriate one (Eprile 1974: 145). The frequent changes of governments (from military to civilian and vice versa) coupled with the belief that the Arab north was superior to the African south made the resolution of the conflict difficult. The most significant efforts during the period however were the Round Table conference of 1965 and the 1972 Addis-Ababa agreement.

3.5.1.1 The Round table conference -1965

The Round table conference and the subsequent formation of the twelve man committee were the activities which were lined up by the Khartoum government in an attempt to resolve the conflict (Johnson, 2011:33). The conference was meant to be an opportunity to end the first civil war as an initiative of the transitional civilian government at the time (Lesch, 1998:40). When the conference members could not reach an agreed solution, it was abruptly terminated however in order to save face from the failure, a twelve man committee (six from the north and six from the south) was organised as a working group to draft proposals for constitutional and administrative reforms (Collins, 2008:84).

The twelve man committee eventually although dogged with problems of disagreements which led to the southerners walking out of it, produced a report which unfortunately was politely ignored by the government of Khartoum. The southerners started to have a clear understanding that they did not have political space in the Khartoum government while the Khartoum government started to have a clear understanding of what the southerners wanted politically (Johnson, 2011:33-34).

The Round table conference and the subsequent twelve man committee outcomes clearly spelt out that the north did not want to share political space with the southerners. This position suggests that the observers noted that the relationship of the concerned parties was not good and as such any efforts between them to achieve peace would always be difficult.

3.5.1.2 The 1972 Addis-Abba peace agreement

The Addis-Ababa agreement was an agreement which was signed between the GOS and the South Sudan Liberation Movement (SSLM) representing southern Sudan in Addis-Ababa, Ethiopia which paved the way to end the conflict at the time and the establishment of Regional autonomous rule in southern Sudan (Ahmad, 2010:5-6). Poggio (2009: 188) states that the main aspects of the agreement were the division of functions and power and the military (security) arrangements. The arrangement suggested that southern Sudan have a Regional self-government

consisting of a Regional Assembly with legislative powers and a High Executive Council (HEC) with executive powers (Addis-Ababa agreement, 1973:37).

The Addis-Ababa agreement and the Regional government Act for the south were incorporated into the permanent constitution of 1973 and as a way of safeguarding the constitution, any amendment could only be possible through a three quarters vote in the National Assembly and a two third majority in a referendum of the southern provinces (Lesch,1998:47). The constitution and the safeguards were meant to build the confidence of the southerners about the new relationship with northern Sudan.

The 1972 Addis-Ababa agreement, however, got abrogated in June 1983 through a Republican order in which was stipulated the re-division of the South into three Regions (Bahr el Ghazal, Upper Nile and Equatorial) (Collins, 2008:137). Surprisingly, the agreement was abrogated without following the safeguards which had been put in place and included in the permanent constitution (Rogier, 2005:15-16). These actions translate that Numeiri undermined any possibility of establishing a pluralist political system in which citizens would have equal rights and that instead of sharing power; he played the south off against the northern Islamists, favouring the former in the first half of his rule and then shifting to the later.

The abrogation of the Addis-Ababa agreement and what followed as actions of the government were experiences that had disturbed most of the southerners as they no longer felt as part of Sudan. The experiences of the period in question created hostility in the relationship of North and South Sudan. This may explain the reasons for the tensions and dilemmas in the relationship between northern and southern Sudan at the time and later after the CPA.

3.5.2. Experiences from the second civil war

The second civil war between north and south Sudan was mainly fought against a background of ideologies by both the Khartoum government and south Sudan rebel movement –SPLM/A.

Contrary to the aspirations of the first and the second Anyanya movement leadership and other southern civilian leadership, SPLM/A's new inclination originated from a call that the problem was not just of the south but rather a problem of the whole

Sudan (Akol,2001:22). The SPLM/A in this regard adopted a centralist approach which was based on the idea of changing the state structures whilst advocating for a united Sudan. Similarly the Khartoum government's approach was that of a united Sudan however with an Arab and Islamic identity perspective. This implies that Khartoum government and the SPLM/A had similar aspirations but with different approaches.

In waging war with the sole objective of replacing the state, the SPLM/A was on a collision course with the military regime and thus set the conflict in a zero-sum equation which ruled out the possibility of a compromise settlement (Maundi et al. 2006:128).

The state of affairs at the time required that the conflict be resolved. In this regard a number of initiatives by both internal and external actors were taken to resolve the conflict.⁵² The contradicting positions of the government and the SPLM/A suggest that the attitudes, behaviour and the conflict structure could not be changed as is advanced in the Galtung's ABC conflict triangle theory.

3.5.2.1 The Koka Dam Declaration-1986

The Koka Dam conference was an interparty initiative whose objective was to pave a way for a national constitutional conference to take place in order to resolve and end the north-south Sudan conflict and took place at Koka Dam in Ethiopia (Collins, 2008:161). The document which came out as an agreement of the conference came to be called 'The Koka Dam Declaration: A programme for national action and its contents consisted of eight points for a new Sudan that would be free from racism, tribalism, sectarianism and all causes of discrimination and disparity (Lesch, 1998:166).

It is argued that what became unique during the conference was that the Umma Party and all the secular and non-secular Arab political groups attended the meet but none from the TMC, DUP and NIF. The attendance of the Umma Party had provided an indication that the party was in agreement with the conference and the outcome

⁵²The external actors mostly presented themselves in the forms of Inter-Governmental Organisations (IGOs), eminent personalities and states while internally initiatives came from interparty approaches, concerned individuals or professional bodies (Maundi et al., 2006: 137).

but in a surprise turn of events, Sadiq al-Mahdi, leader of the Umma party which had signed the declaration after winning the elections that followed, disowned the declaration (Iyob and Khadiagala, 2006:89).

Sadiq as the leader of the party that had endorsed the Koka declaration after his election as a Prime minister formed a coalition with the DUP and endorsed the 1968 draft constitution which had in it the Islamic law which was at the heart of the problem of the north-south relations (Lesch, 1998:100). The implications of the endorsement of the 1968 draft constitution was a fall out in relations with the southern politicians not to mention the SPLM/A. Mansour (1992:395), states that the Prime Minister (PM), Sadiq al-Mahdi surprisingly kept changing his positions time and again on the Koka Dam issue.

The position of the government and Prime Minister Sadiq at the time as evidenced from what had been happening forced many to draw conclusions that the north did not want to resolve the conflict and to relate well with the south. It can then be alleged that the experiences from the aftermath of the Koka Dam initiative were that northern Sudan did not want to make peace with southern Sudan in the absence of the south not accepting the Arabisation and Islamisation agenda. This position suggests that the north faced a dilemma on the resolution of its conflict with the south.

This scenario implies that the relationship of north and south Sudan was not good due to lack of trust and remains in that state up to now. This begins to explain the tensions and threats to a return to war that still exist between them even after the separation of South Sudan.

3.5.2.2. The DUP-SPLM/A ACCORD – 1988

The DUP-SPLM/A accord was an intra-party initiative whose overtures came to the fore after the DUP had been angered by the Umma-NIF alliance, irritation by the Prime Minister Sadiq's indecisiveness on crucial national issues and a concern about the impact on the country's economy (Lesch, 1998: 120-121).

Johnson (2011:84) states that the circumstances and DUP's anticipation concerning the elections which were about to be conducted forced its leader Muhammed

Uthman al Mirghan to have a direct face to face meeting with Garang, the SPLM/A leader in Ethiopia and ended up with a DUP-SPLM/A accord. It is argued that the accord was a modified Koka Dam Declaration which the DUP had effectively timed to have an impact on the Sudanese politics as it is noted that the accord was viewed positively by the general public and negatively by the government.

The Sadiq government refused to endorse the agreement by alleging that it was not relevant but in an effort to salvage the situation, the African parties, intellectuals and the DUP further organised a workshop at Abo in Ethiopia in order to further the agenda of the accord (Lesch, 1998: 122-123). The Military issued an ultimatum to the Prime minister to either provide the arms necessary to fight to end the war or to negotiate a peace agreement and likewise, the public, political parties and the trade unions signed a national declaration of peace to embrace the DUP-SPLM/A accord.

It is noted that following the actions of the Military and the public, the Prime minister and his government were forced to endorse the accord but the process got sabotaged by a group of committed Muslim officers in the Army supported by the NIF who carried out a pre-emptive coup and thus prevented the peace settlement and the realisation of the DUP-SPLM/A accord (Collins, 2008:169-170).

Ahmad (2011:7) alleges that the DUP-SPLM/A initiative was the last attempt toward reaching a settlement of the conflict during the last democratic regime in Sudan. The scenario that played out in the context of the DUP-SPLM/A accord and how it was hijacked at the eleventh hour provides an experience of the dilemmas faced by north and south Sudan in relation to their attempts to resolve the conflict. In retrospect then, it can be noted that experiences of how the DUP-SPLM/A accord was handled and the developments thereafter may have a bearing in the tensions between the northern and southern Sudan which exist up to now even after the separation of South Sudan.

3.5.2.3 The Carter Initiative -1989

The Carter initiative was an effort by Jimmy Carter, the former President of the United States of America (USA) to at least resolve the north-south Sudan conflict. Maundi et al. (2006:140) states that the initiative was influenced by an announcement by a new Khartoum government that it had no place for the DUP-

SPLM/A accord but would prefer to have peace discussions with the SPLM/A based on peace plans from each side as the basis.

Government to this effect contacted the SPLM/A two weeks after it came to power and organised a National Dialogue Conference which it had planned to use as a basis to build a national consensus on a new federal government structure. The signals from the parties compelled Carter, the former president of USA who had an interest in eradicating Guinea worms and river blindness in Sudan to register a concern on the impact of the war on peace and human life in particular (Iyob and Khadiagala, 2006:92). Apart from the parties' willingness to talk, their acceptance of the initiative was based on the recognition of the importance and the impact of a former USA President on the peace process and the USA policies on Sudan.⁵³

Lesch (1998:170) states that with the background of the meeting which the government had with the SPLM/A whereby it was made clear that Sharia was the main problem, Carter believed that solving the issue of the Sharia would pave the way for an agreement on the nature of the constitutional system. Against this background, the parties were invited for a conference to be chaired by Carter in Nairobi-Kenya to resolve the issue.

Maundi et al. (2006:140-141) states that a proposal by the conference chair to suspend the Islamic laws for three months until when a national conference could decide on the issue drew a blank response and resulted in an impasse. The stalemate meant that each side was not prepared to move away or to make any concessions from the positions that they had established.

The positions of the parties in this regard suggest that they came to the conference geared for confrontation and not for compromise (Iyob and Khadiagal, 2006:92). The position is manifested from the fact that during the conference, the government stuck to its programme of the National Dialogue Conference which focused on a federal system in which non-Muslims could be exempted from some and not all Islamic laws while the SPLM/A maintained a demand to cancel Islamic laws and to form a broad national unity government.

⁵³ It should be noted that the USA policies were anti-communist and as the SPLM/A had initially harnessed communism, translated that they were anti- SPLM/A.

The development implies that the parties wanted the situation to remain the way it was which might have meant let's live as separate entities. The experience from the Carter conference scenario indicated that the parties faced dilemmas with their relationship in the sense that they showed a lack of tolerance to each other over the issue of the Sharia. The positions of the north and the south in this regard revealed that any conflict resolution attempts involving the two parties would always be problematic. This explains the existence of tensions and the threats between Sudan and South Sudan in their relationship.

3.5.2.4 The USA mediation attempt (The Herman Cohen Initiative) – 1990

The USA mediation initiative was generally a response to President Bashir's request in March 1990 to it to assume the role of a mediator mostly due to the military balance at the time which had tilted more in favour of the SPLM/A with a view for him to claim a diplomatic high ground (Johnson, 2011:111). According to Maundi et al. (2006: 141), the attempt by the USA was initiated by the Assistant Secretary of State for African Affairs, Herman Cohen based on the Obasanjo-Deng approach and motivated by peace and humanitarian concerns just like the Carter's initiative.

Cohen advanced two proposals which were; separating the forces by mutual withdrawal and establishing a civilian administration in the South under the SPLM/A and as a second option, Khartoum to negotiate a comprehensive settlement based on a federal arrangement (Lesch, 1993:127). The first option basically involved establishing a de-facto state while the second option involved a federal approach which in actual sense were the ideas of separation and power sharing (unity) as part of the right to self-determination concept. Bashir rejected the entire plan whereas the SPLM/A agreed with it.⁵⁴ The irony in this case is Bashir's rejection of the options since it was him who had requested the USA to mediate the conflict between his government and the SPLMA.

Separating the troops would have created a buffer zone which would have required monitoring by an external force which Khartoum would not have accepted as it would have been seen as an affront to its sovereignty. On a different note, the SPLM/A with a centralist objective of the 'New Sudan' would have found it difficult to accept a

⁵⁴ A de-facto state is a state that is not legally recognized internationally

regionalist self-rule option since a settlement based on autonomy would have complicated matters with its principal supporter – Ethiopia which at the time was also fighting a war on its soil to suppress such an objective (Iyob and Khadiagala, 2006:93).

The centralist approach which the SPLM/A had adopted was directly in tandem with that of the state on the unity of Sudan although each tended to differ in the way it was to be achieved. The status quo in this case created a zero sum scenario which required rethinking although the positions of the parties pointed to a direction that each was not interested to live with the other side by side. However, considering the SPLM/A's supporters' rhetoric, the first option of the initiative made a lot of sense to their cause.

The experience from the initiative although it had collapsed in the process due to international political developments was that the North faced a dilemma on how it could resolve the conflict outside its' purported agenda of Arabisation and Islamization. The hard line position by the government in this case was evidence enough that it did not want to resolve the conflict and to relate with SPLM/A. The position of the government from the initiative may suggest that it faced a dilemma over the resolution of the conflict hence tensions that are characteristic currently of the status quo between Sudan and South Sudan even after the separation of South Sudan.

3.5.2.5 Abuja 1 and 2 initiatives

The Abuja1 and 2 initiatives were the OAU's attempts to resolve the Sudan conflict which came about after President Bashir had expressed willingness to talk and through the overture, the Nigerian President Ibrahim Babangida through emissaries received an acceptance to mediate the Sudan conflict (Rogier, 2005:38).

According to Iyob and Khadiagala (2006:94) Bashir's showing of interest for a mediation initiative followed a favourable military situation in the battlefield after the SPLM/A's split and having reclaimed most of the areas from them which he felt would make the Khartoum government negotiate any initiative from a privileged position. It is argued that Babangida's OAU chairmanship was of course one of the factors in the Khartoum's and SPLM/A's acceptance of intervention but it would

seem that more importantly Sudan wanted to learn how Nigeria was coping with divisive politics in the context of regional, cultural and religious diversities which were a problem in Sudan.

The position might have originated from the fact that Nigeria had been able to forge a relatively stable national identity not based on religion, geographic location or ethnicity but on individuals' equality before the law although it had a lot of similarities with the Sudan situation (Maundi et al. (2006:144). Iyob and Khadiagala (2006:95), State that during Abuja 1, the government's position was for a federal state with a commitment to respect religion, linguistic and cultural diversities of the country and the primacy of the majority rights while the two SPLM/As' positions initially favoured a secular democratic system based on the principle of equality before the law but later changed to a regionalist self-determination position.⁵⁵

The SPLM/A rejected the government's position especially on the principle of the right of the majority because it had packaged the controversial religious issues while the government rejected the SPLM/A's position because it contained demands for reviving multiparty politics which it opposed. The rigid positions which were taken by the parties, despite the mediators' effort to try to sway them otherwise, forced the talks to collapse and be adjourned to a later date (Lesch, 1998:172).

Abuja 2 only convened with the intervention of Kenya and Uganda otherwise it appeared that it would not have taken place. According to Maundi et al. (2006:146), the government advanced the contentious issue of Sharia laws with an allowance of exempting the south from certain Sharia provisions as its position while the SPLM/A Mainstream surprisingly continued with the self-determination demand but based on its' new Sudan concept with the principal objective of a secular democratic Sudan. Failure of the parties' to change their positions eventually led to the collapse of the Abuja 2 initiative.

The parties' positions during the two Abuja initiatives revealed a rigid position of the north rooted in the Sharia and the majority rules orientation. Likewise in the context of the SPLM/A, it was not clear with its position as initially it presented a separation

⁵⁵ The SPLM/A had two delegations (SPLM/A Mainstream and SPLM/A Nasir) in both the Abuja 1 and 2 initiatives. It is alleged that the Khartoum government had insisted on a separate delegation of the SPLM/A Nasir with a view to play the two groups against each other (Lesch, 1998:172).

posture but later a unity posture based on the new Sudan concept. The experience from the initiative was that it became clear in the minds of the two SPLM/A delegations that their differences were only privileging the north on its rigid agenda.

This realisation and the experiences obtained, raised the relationship problem between north and south Sudan due to the north's rigid position on the Sharia and the majority rules position and the vagueness of the SPLM/A position as it kept changing. This scenario it is noted presented the dilemmas that were faced by the two parties and may suggest the problems of conflict resolution of the north-south Sudan conflict at the time and the tensions and the threats to a return to war that exist between the two parties up to now.

3.5.2.6 The Chukudum UMMA-SPLM/A accord

The relationship between UMMA and SPLM/A can best be traced to the Koka Dam conference in 1986 whereby the two parties had attended and endorsed its declaration and in 1996 whereby the two parties pledged to tirelessly work together with fellow members in the NDA to accelerate the removal of the Khartoum government, hold a constitutional conference and to establish a democratic government (Lesch, 1998:188).

The relationship of UMMA Party and the SPLM/A was based on their agenda to oppose the Khartoum government which was mostly linked with the 'New Sudan' perspective of the SPLM/A (Johnson, 2011:71). SPLM/A at the time was threatened and weakened with splits within it while the Umma party was suffering from the government's ban of political parties and the imprisonment of its' leader.⁵⁶ The prevailing situations of the two parties at time are viewed in this regard to have played a part.

NDA initially had disagreements within it over the issue of self-determination by the SPLM/A but Garang, the SPLM/A leader, managed to allay the fears of those who were concerned (Lesch, 1998:192). Garang in his response argued that the right to self-determination was a basic component of democracy and human rights principles to which the alliance was already committed to and warned that failure to establish a

⁵⁶At the time, the two parties belonged to the NDA which was an opposition organisation with an agenda to oust the Khartoum government (Kebede, 1997:24).

mutually acceptable political system would compel the south to demand independence which the Umma Party understood and accepted.

Johnson (2011:104) states that Umma's acceptance of the SPLM/s position on self-determination came against a background of international acceptance of the right to self-determination and the importance of a secular democratic state secured through the support of the IGAD principles of 1994. The Umma party hoped that the south would opt to remain within Sudan as it was its plan to constitute a democratic government based on territorial decentralisation which at the time was resonating well with Garang's new Sudan Concept.

The Chukudum accord was signed on 12 December 1994 and as an agreement conceded that unity could not be based on force but to arise from free choice and further endorsed the NDA Nairobi Declaration of 1993 and the IGAD DOPs.

Umma signed the declarations after recognising that a vote for the separation of the South would be an outcome not only from the policies of the time but of its perception's prior view that Sudanese self-consciousness is Islamic and Arabic and also its failure to recognise the grievances of the African Sudanese ethnic groups (Johnson, 2011:104). The Chukudum accord in this context can be viewed to have brought out clearly the questions of self-determination and even the probability of a referendum during a transitional period given the circumstances which had developed at the time.

The position translates that Chukudum added weight to the factor of the right to self-determination for the south. The acceptance by a major party of the north contributed to some of the dilemmas the parties in the conflict faced which later had a bearing in the relations of north and south Sudan initially as one country and later as two states.

3.5.2.7 The Asmara accords 1994 and 1995

The Asmara accords include the resolutions of the Asmara Declaration of December, 1994 and the NDA conference of June 1995 (Lesch, 1998:194-195). According to Iyob and Khadiagala (2006:107-108) the Asmara Declaration came out from a meeting organised by Eritrea between SPLM/A and leading Sudan opposition groups

(Umma, DUP and the Sudan Allied Forces (SAF)) which stressed on the aspect of unity but left the door open to southern independence in case of violations of the principles of multiracialism and the separation of state and religion.

The NDA conference however, provided for an interim government after the overthrow of the NIF regime, self-determination as a basic right of peoples and a referendum for Abyei, Nuba Mountains and Blue Nile areas to decide whether or not to join the south (Collins, 2008:213).

It is argued however that in both the instances of the two Asmaras, the religion factor remained vague while the non-use of religion in politics was affirmed; they remained silent on the secular state aspect. However the right to self-determination and the referendum aspects came out clearly in the two forums and that the CPA of 2005 was almost similar to the positions adopted during the Asmara Accords.

Ironically however the Chukudum and the Asmara accords were almost identical to the SPLM/A proposals at the Abuja meetings in 1992 and 1993 which the NDA members had scorned at the time.

The two Asmara events can be alleged to have provided an opportunity to both the northerners and the southerners about the idea of self-determination. It is believed that Eritrea may have influenced the direction towards the right to self-determination concept and its options of separation and unity as a country which had broken away from Ethiopia to the Sudanese opposition. The Asmara accords experience presented dilemmas to the conflict parties in Sudan in the way the case of the right to self-determination was to be handled. It can however be argued that the accords provided a basis for conflict resolution although it also was divisive to a certain extent.

3.5.2.8 The first IGAD initiative

The Inter-Governmental Drought and Development Authority (IGADD), later called the Inter-Governmental Authority on Development (IGAD) was a regional organisation mainly created to respond to famine and environmental issues from 1983 to 1984 comprising seven countries mainly from the horn of Africa (Iyob and Khadiagala, 2006:103). According to Young (2012:83) the IGAD peace initiative for

Sudan was embarked on after being requested by President Bashir of Sudan during its annual summit in 1993. The reasons for Bashir's request came against a background of Sudan encountering high costs of living as a result of its civil war with the SPLM/A and isolation at the regional and international levels due to its fundamentalist and discrimination policies (Inter Africa Group, 1994).

IGAD's acceptance to take the challenge to mediate in the Sudan conflict, it is argued was based on the fact that it was an interested party and that although its members perceived the conflict differently; collectively they were concerned with its spill over effects in terms of the security in their countries (El-Affendi, 2001:585).

The Sudan IGAD initiative went through four meetings, with a proposed agenda which included the interim arrangements and the constitutional principle underlying the resolution of the civil war which basically focused on the introduction of the right to self-determination and the question of a referendum for southern Sudan and the other areas which were united with it and an articulation of its Declaration of principles (DOPs) (Collins, 2008:2007).⁵⁷ **(See appendix 5 on the DOPs)**. This translated that IGAD tried to be clear on how the conflict was to be resolved which in the context of Khartoum was problematic.

It is noted from the meetings that the Khartoum Government did not accept the positions which were advanced and chose to suggest its own formula which was the use of a military option. The Khartoum leader of delegation to these meetings as a sign of desperation and disappointment had this to say: "If you want to separate the South from the North, it will be done through the barrel of a gun. We will fight for it to the last man" (Lesch, 1998:183).

The IGAD peace initiative came out clearly on the issue of the right to self-determination for the south in the discussions of the four meetings that it had held with the Khartoum government and the SPLM/A and through the DOPs which it had produced to become the basis of the mediation/negotiation process of the conflict⁵⁸.

⁵⁷ The DOPs were authored by IGAD as the basis for the mediation and negotiation of the North and South Sudan conflict during its initial meeting in 1994.

⁵⁸ Susan Page, 04 October 2013, South Sudan

The experience of the four IGAD meetings can then be claimed to have provided the parties with dilemmas as it tried to be neutral in the resolution of the conflict as much as possible. Khartoum it is noted was surprised with the options which it felt were against it while SPLM/A was surprised with the options which it felt were in its favour. The position of the IGAD in this regard contributed to the dilemmas which the conflict parties faced which likely to an extent caused tensions and threats to a return to war at the time and even after the south separated.

3.6 Conclusion

The history of Sudan provides a trajectory of the relationship of Sudan and South Sudan initially as one country and now as two countries. The Turkiyya, the Mahdiyya, the British and the Egyptian condominium and all the post-independence military and civilian regimes of Sudan were responsible for the status quo. All administrations during these times viewed southern Sudan as different from northern Sudan. The interactions in the areas of religion, trade and politics created a culture of hostility between the people of north and south Sudan as at all times the Southerners were marginalised in these areas.

The clash on an appropriate nomenclature of a national identity whereby the GOS wanted an Arab-Islamic one while the south wanted it to be African resulted in an intractable conflict which became difficult to resolve. The two civil wars (1955 to 1972 and 1983 to 2005) were generally the outcome of the poor relationship of the two parties/regions.

Demands for the right to self-determination with the options of unity (federal status, confederation and autonomy) and separation were all attempts by the south to liberate itself from the GOS which never ceased to champion the Arab-Islamic assimilationist policies which the south detested.

Both parties faced dilemmas in their efforts to resolve the conflict as many initiatives were embarked on. The dilemmas faced by the parties in the attempts generated a poor relationship status of the north and the south. This poor relationship explains the emergence of tensions at the time and even now after the separation of South Sudan from Sudan. Any attempts of conflict resolution/transformation through agreements as settlements are likely to encounter problems.

The next chapter discusses the analysis of the CPA in the context of conflict resolution. It aims at providing a general overview of the 2005 Sudan CPA and the activities as related to conflict resolution.

Chapter 4

4.0 Analysis of the 2005 Sudan Comprehensive peace agreement in the context of conflict resolution

4.1 Introduction

The Sudanese conflict had/has been very devastating to the people Sudan initially as one country and now for the people of Sudan and South Sudan and the neighbouring countries. According to Azar (1990:16-17), a situation like this, translates into the deterioration of security, institutional deformity, psychological ossification and increased dependency and cliency on the part of the conflict actors in a country. The conflict forced millions of people to be either internally displaced persons (IDPs) or refugees, thereby destabilising the security of the region.

The conflict was a challenge to international peace and security hence the need for resolution to avoid its negative effects. Attempts to resolve the conflict (internal and external) were many but the most significant was the Inter-Governmental Authority on Drought and Development (IGADD) later IGAD (Inter-Governmental Authority on Development) led initiative backed by the US and its allies UK, Norway and Italy referred to as the Troika or the Quartet.⁵⁹ According to Ramsbotham et al. (2011:31), as articulated in chapter 2 conflict resolution is about addressing and transforming the deep rooted sources of a conflict. The objective of the IGAD initiative was to resolve/transform the conflict and achieve peace.

Galtung, (1996:9) as in chapter 2 views peace as an occurrence of harmony characterised by lack of violence, conflict behaviour and the freedom from fear of violence or non-violence, creative conflict transformation and categorised as either negative peace or positive peace. In conflict situations/war, conflict is only ended either through military victory or a mediated/negotiated settlement guaranteed by a peace agreement. Wallenstein and Sollenberg (1997:343) as in chapter 2 define peace agreements as arrangements entered into by warring parties to explicitly regulate or resolve basic incompatibilities. In essence peace agreements are conflict

⁵⁹ The Troika or the Quartet comprised of the United States of America (USA), United Kingdom (UK), Norway and Italy) supported and revived the Sudan conflict peace talks.

settlements. It is contended in this regard that parties to a conflict face dilemmas in the course of the attempts to resolve conflict which in many instances tend to derail conflict resolution efforts (Barash, 1991:9-11).

The IGAD peace initiative culminated into the CPA, which contributed to partially ending the war in Sudan. The question is whether the CPA only partially ended the war (negative peace) or whether it went beyond and contributed social justice (positive peace) in the context of conflict resolution through the lens of its related theories of Galtung's ABC conflict triangle theory and the Liberal peace theory. Against this background, the mediation of the CPA, negotiations of the CPA, the perspective of the protocols as to whether they were adequate and appropriate and the peacebuilding initiatives in the context of conflict resolution will be discussed.

4.2 Mediation of the CPA

The Sudanese conflict was an intrastate conflict which required managing and eventually resolving to eliminate the devastating effects with a view to achieve durable peace. The attainment of peace required the two conflicting parties to resolve their incompatibilities.

The Sudanese governments, for reasons of national interests, preferred own direct interparty negotiations as opposed to mediated negotiations for a long time Maundi et al. (2006:135). Although initially successful, with time such an approach became difficult to sustain and opened up to a chapter of outside third party interventions which focused attention on mediation to facilitate negotiations of the conflicting parties.

Mediation is essentially a pacific, non-coercive and non-binding approach to conflict management that is entered into freely by the concerned parties who at the same time maintain control over the substance of the agreement (Fisher, 2014:4). In a similar regard according to Ramsbotham et al. (2011:23-24 and 28), third party intervention (which includes mediation as one of its methods) which is a form of diplomacy, plays an important part in how the actions of the actors can be perceived in the context of conflict resolution (**see table 2.2**). Mediation is also one of the important conflict resolution approaches method.

President Al-Bashir of Sudan during an annual summit of IGAD in 1993, in Addis-Ababa requested the organisation to mediate in his country's North-South conflict (Lyob and Khadiagala, 2006:103).⁶⁰ The request meant that a third party should intervene to resolve the conflict, either by the great power, the multi-government and the eminent persons' model as the dominant models of mediation (Mitchel 2008:95). According to Bercovitch and Jackson (2012:38-40) mediation can be done by individuals, states and institutions and organisations.

The IGAD mediation was a multi-governmental model or mediation by a regional organisation. The use of this model, however, raises doubts, especially when the conflict is within the formal boundaries of one of the members of the organisation or formal government of a state as one of the parties to a conflict opposed by ethnic or other types of insurgences. The same is the case when the issues in the conflict revolve around the preservation of the unity of the state as opposed to its division or disintegration (Mitchel, 2008:95-96). It becomes difficult to discover an appropriate government or an honest broker given the tendency of states and the international/regional organisations to use the principles of territorial integrity and non-interference in the internal affairs of any country unless genocide clearly threatens.⁶¹

Conflict resolution approaches include the traditional/first generation approach which is best suited for dealing with inter-state conflicts and the 21st century approaches which are suitable for dealing with intrastate conflicts (Richmond, 2002:9). Since the conflict at the time was intrastate in its nature, the choice of IGAD as a sub-regional governmental organisation was appropriate as it fitted well with the 21st century conflict resolution approaches which are predicated on the participation of many actors of the society involved with conflict in the peacemaking process.

The north-south Sudan conflict involved many parties which included military, political, armed groups, civil society and the grassroots level. However, only the

⁶⁰ IGAD is an organisation whose members include the seven countries of the Horn of Africa namely; Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda which initially was instituted to deal with the coordination of regional responses to famine and environmental issues largely due to pressure from aid agencies and international donors. In due course however, following new thinking on the role of regionalism and regional cooperation in safeguarding international order resulted in the organisation undertaking subsequent responsibilities in the fields of peace and security (El-Affendi2001:581).

⁶¹ Interview with Susan Page, 4 September, 2013, Bradford, United Kingdom.

GOS and the SPML/A were included in the mediation process while all the others were left out.⁶² IGAD used a first generation/traditional conflict resolution approach by only involving officials of the two conflicting parties. Bercovitch and Jackson (2012:6) state that the first generation/traditional conflict resolution approach is a state-centric Westphalia system whose goal is to resolve conflict so as to protect order and security and by reinforcing the ability of states to pursue their own interests.

This particular conflict resolution approach uses the traditional tools of conflict management which revolve around legal methods, peacekeeping, mediation and negotiation frameworks and the incorporation of actors defined in terms of either states or insurgents (Richmond, 2002:9). This suggests that those who were left out in northern and southern Sudan continued with the conflict as spoilers of the peace process which is a direct translation that whatever settlement was reached was only respected by those who were included in the process.

The attitudes of the parties which were left out were still hostile, the behaviour violent and the conflict structure not changed as fighting still continued. Galutng's ABC conflict triangle theory in this case could not apply. Likewise as the conflict structure could not be transformed, peacebuilding activities could not take place for liberal peace to take root as is espoused in the Liberal peace theory.

4.2.1 Origins and reasons for the mediation

There must have been good reasons by the Government of Sudan (GOS) to request IGAD to mediate in its conflict and for the SPLM/A to accept the proposal. According to lyob and Khadiagala (2006:102), the request was dictated by difficulties it faced, relating to its pursuance of a military option in its conflict with southern Sudan— although IGAD came in at a time while the military balance was in its favour, there were economic and political challenges within its military ranks.⁶³ At the time, no less than three military coups were attempted during the period 1991 and 1993. There was increased solidarity between the northern political parties under the NDA and the SPLM/A and the government at the time was being isolated

⁶² Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

⁶³ Interview with Leben Moro, 5 July, 2013, Juba- South Sudan.

internationally and regionally because of its discriminatory and fundamentalist policies.⁶⁴

These developments suggest that Sudan was under pressure to effectively govern the country and thought to take mediation as an option. Mediation is important especially at a stage when at least some of the conflicting parties have come to accept that pursuing conflict is unlikely to achieve their goal at least before reaching the stage of accepting formal negotiations (Darby and Mac Ginty, 2008:94-97). Bashir may have been in this position hence his request for mediation.⁶⁵

However, Bashir's gesture was a calculated strategy which was based on trying to prove to the world that Africans had become mature enough to resolve their own problems and as such no longer required a foreign guardian (Young, 2012:83). It is perceived that Sudan wanted to pre-empt foreign intervention - that is to pre-empt any UN's initiative on the country's problems which also came with a fear that in the absence of a viable peace process, the USA military engagement which at the time was underway in Somalia could be unleashed on the country⁶⁶.

The request by Sudan for the mediation was done to protect itself against anticipated actions of the International community and to use the fellow members of the IGAD as a legal shield (Iyob and Khadiagala, 2006:101). For fellow members of the IGAD, an organisation of sovereign states would in no way support a rebel movement bent on challenging its sovereignty. This may have originated from the fact that Ethiopia and Eritrea who were among the IGAD member states were viewed as best friends as they were being governed by former insurgents indebted to Sudan for the support which it had given to them during their liberation struggles (Young, 2012:83).

The SPLM/A which was fighting the government was undergoing a very difficult period resulting from the loss of support from the Derg in Ethiopia and a split which

⁶⁴ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom.

⁶⁵ Interview with Anna Ito, 8 July 2013, Juba- South Sudan.

⁶⁶ Interview with Pagan Amum, 5 July, 2013, Juba-South Sudan (USA at time was in Somalia conducting operation Restore hope. Considering the developments of the conflict in its own country (Sudan), it felt that if it did handle the conflict resolution itself, USA could have turned to it as its next target).

resulted in the emergence of two parallel SPLM/A groups (SPLM/A-Mainstream and SPLM/A Nasri later called SPLM/A-United).⁶⁷

The SPLM/A due to its vulnerable position, (militarily and politically) had no option but to accept the IGAD mediation proposal. However, SPLM/A viewed the proposal for IGAD to mediate with scepticism mainly due to the fact that IGAD as an inter-state organisation would perhaps be inclined to favour the GOS (Iyob and khadiagala, 2006:104).

At the end of it all the parties preferred IGAD over other respective mediators due to the fact that the organisation at the time resonated well with the new African perspective of searching for African solutions to African problems. Maundi et al. (2006:148), state that the basis of this position had been a sober realisation by African countries of the reluctance and the inability of external actors to act on conflicts in Africa and that even within Africa, the choice of IGAD was in line with the layered responsibility framework after the failure of other OAU sponsored initiatives. It should however be argued that the key reason for IGAD to be allowed to mediate in the northern and southern Sudan conflict in 1993 was because the Cold war which had been a basis of support for the conflicting parties had ended. This position made making an 'African solution' acceptable and in this case using the IGAD.

Mediation is likely to be used and accepted when parties calculate that it will help them with a face saving way out of a conflict or a means of influencing their opponent or that rejecting mediation will result in great harm than accepting (Kleiboer, 1996:380). Zartman (2000:22), states that parties are most likely to accept mediation and cooperate for a peaceful resolution only after certain conditions are met – that is when they find themselves locked in conflict from which they cannot escalate to unilateral victory and the deadlock is painful to both of them (although not

⁶⁷ Interview with a senior North Sudan politician, 27 October 2013, Oxford-UK. (The 'DERG' is a short name of the Coordinating Committee of the Armed Forces, Police, and Territorial Army that ruled Ethiopia from 1974 to 1987. It took power following the ousting of Emperor Haile Selassie I. Soon after it was established, the committee was formally renamed the Provisional Military Administrative Council, but continued to be known popularly as "the Derg") (Smock, 1993:53-55).

necessarily in equal degrees or for the same reasons) they seek a way out and terms such a situation a ripe moment.⁶⁸

The positions of Sudan and the SPLM/A at the time suggest that the two parties faced dilemmas in how they could proceed with the conflict as they were all helpless in the circumstances they were in. What was problematic to the acceptance of the mediation by the two parties was that each party felt hurt at different times and as such real commitment to resolve the conflict appeared could be elusive. This suggests that only partial negative peace could be achieved and positive peace for both potential and actual conflict would be difficult to attain as it would be difficult to reconcile the parties.

IGAD's acceptance of the challenge to mediate was based more on the fact that it was an interested party to the conflict (Maundi et al. 2006:149). Although individually its members might have perceived the conflict from different perspectives, collectively they saw it more on regional security terms specifically concerning the spill over effects on their countries' political stability.

This suggests that the objective of the IGAD members supported by the western powers in this regard was generally to help a fellow member in order to help themselves as well. The position of IGAD presented a riddle in terms of being a neutral and honest broker in the context of conflict resolution although it satisfactorily positioned itself in terms of the liberal peace perspective⁶⁹.

The GOS and SPLM/A in this case faced dilemmas in the context of the conflict settlement, management and resolution/transformation due to the dynamics of their relationship and the organisation which was handling the mediation.

4.2.2 IGAD mediation frameworks

There were in all two IGAD mediation initiatives (the first from 1993 - 2001 and the second from 2002-2005) focused to end the Sudan conflict and achieve peace. Surprisingly, each came up with its own framework as the basis for the negotiations

⁶⁸A ripe moment is defined in three overlapping ways which include; mutual painful stalemates marked by a recent or impending catastrophe, a time when both parties' efforts at unilateral solutions or tracks are inconceivable and as a place on a long slope where the 'ins' start to slip and the 'outs start to surge (Zartman,1989:10).

⁶⁹ Interview with Alan Goultry, 5 November 2013, London- UK

although it was claimed they were the same. The Declaration of Principles (DOPs) served as the basis for the first initiative while the Machakos framework which was also a protocol served as the basis for the second IGAD initiative.⁷⁰

The DOPs emerged in view of lack of progress during the meetings of the first initiative's negotiations whereby the issues of the right to self-determination and the separation of the state and religion took centre stage. In a move to make progress, the IGAD mediators authored the DOPs and handed them to the delegates for them to examine confidentially and to be discussed at the next round of talks (Lesch, 1998:181-182).

SPLM/A-M and SPLM/A United endorsed the DOPs while the government delegation rejected them completely on the grounds that mediators were not supposed to state their preferred outcome and that the issues of religion and state, secularism and self-determination were outside the scope of IGAD. This was a bad start for mediation however, IGAD went ahead and adopted the DOPs as the basis for the negotiation of the conflict. Carnevale and Pruitt (1992:564) state that mediation is important especially at a stage when at least some of the conflicting parties have accepted that pursuing the conflict is unlikely to achieve their goals even before accepting formal negotiations. This claim supports the positions of the two SPLM/A factions which might also have had an effect on the actions of the GOS later to return to the table.

The Machakos framework was authored during the second Initiative after Kenya appeared to have taken over the process as the members of the IGAD collective appeared to have taken a back seat (Young, 2012:355). The Special envoy General Lazarus Sumbeiywo described the DOPs as a complete analysis and stated that the Machakos protocol as a framework was a single text zeroed in on the two aspects of self-determination and the separation of state and religion in the context of the north and south Sudan conflict.⁷¹

Against this background, it can be seen that the DOPs had a broad focus which had included dealing with the resolution of conflict in the whole of Sudan while the

⁷⁰ Interview with Bona Malwal, 22 October, 2013, Oxford University -United Kingdom.

⁷¹ Interview with General Lazarus Sumbeiywo, 12 September, 2013, Nairobi-Kenya

Machakos framework had been a filtered version of the DOPs which had a concentration on the northern-southern Sudan conflict only. The parties faced a dilemma as to which framework would be effective. Likewise the narrowing down of the agenda by the Machakos framework implies that the other issues in the other areas related to the conflict would not be resolved.⁷² Darfur and east of Sudan in this case were left out (Young, 2012:100). It is argued that Darfur was left in the CPA mediation/negotiation to avoid complicating the settlement of the northern and southern Sudan conflict. Secondly it is perceived that while the population of the area was non-Arab, Islam was their religion and as such was considered as part of the heartland of the GOS whose agenda was the Islamisation of the whole Sudan.

East Sudan was left out for the same reasons but was treated/is treated differently as it is seen as a buffer zone for any conflict with either Ethiopia or Eritrea. The reasoning may possibly be that the area can easily align with these countries. Thus complete negative peace could not be achieved as the other actors including those in these areas continued fighting. Positive peace as advanced in the Liberal peace theory could not be realised as the conflict structure could not be changed.

The refocusing of the DOPs at Machakos, was a direct translation that IGAD as an organisation was facing disunity among its' members on the Sudan conflict which may have had its origins from the tensions between some of the member countries which had reached a highest level with the outbreak of the Ethiopia- Eritrea war and the USA and its allies' close relationship with Kenya at the time (Young, 2012:91). This affected the mediation efforts, the negotiations at the table and the relationship of the two parties later after the process. This position may explain the dilemmas that were faced by the parties and the tensions and the threats to a return to war later in the process between them.

The DOPs and later the Machakos framework were acts in the right direction in the context of conflict resolution. However, the adoption of the Machakos framework to some extent could not assist to deal with attitudes, behaviour and the conflict structure as are advanced in the Galtung's ABC conflict triangle theory as it was narrow in its focus. The failure to transform the conflict structure would imply not

⁷² Interview with a senior North Sudan negotiator, 27 October, 2013, Oxford-UK

being able to carry out peacebuilding activities which assist to achieve liberal peace as is advanced in the Liberal peace theory.

Iyob and Khadiagala (2006:105) state that the DOPs were an important formula as the basis for future negotiations of the conflict with a view to resolve the conflict in the whole of Sudan but the contradiction that came with the Machakos framework which only focused on the north-south Sudan conflict perspective is noted to have prejudiced the conflict resolution process which could have served to achieve peace. The change of the framework from the DOPs to Machakos in this regard was a dilemma which the conflict parties had faced in the attempt to resolve the conflict.

4.3 Negotiation of the CPA

Negotiation is one of the methods of the conflict resolution approaches that aims at stopping violence and reaching an agreement through a joint decision-making process by parties involved in a conflict. Negotiation is perceived as was defined in chapter 2. Generally negotiation is a process by which actors communicate and exchange proposals in an attempt to agree about the dimensions of conflict termination and their future relationship (Ramsbotham, et al., 2011:299).

Negotiation is a practical act whereby the parties in conflict sit together to discuss their incompatibilities with a view to resolve a conflict and circumstances allowing achieve durable peace. The parties in Sudan who were involved with conflict accepted mediation with a view to allow the conflict to be resolved through interactions at a table.

The Sudan conflict parties, despite their acceptance to negotiate, did not really have a commitment to give the process full attention considering the fact that it had been a norm for the GOS to dishonour agreements and thus made both parties to have a business as usual attitude on the exercise.⁷³ One of the respondents had this to say: “[t]here had been many agreements in Sudan which had been reached through negotiations but all of them were dishonoured. Our view was that it was going to be

⁷³ Interview with Susan Page, 04 September, 2013, through a telephone conference, Bradford: United Kingdom.

the same like before in the case of the IGAD process. I personally had this chat with chairman”.⁷⁴

This position translates that the parties had apprehensions with the IGAD negotiation. Bercovitch and Jackson (2012:21) allege that the parties, the issues and the context are the core elements of any negotiation process and that each one has an effect on how the process is conducted and on the range of the options it may achieve. The absence of any one of the elements affects the outcome of negotiation processes in the context of conflict resolution.

4.3.1 Actors in the negotiations

The conflict in Sudan at the time IGAD intervened as already articulated had a number of actors who were involved in it who included; the military, other armed groups, political parties and civil society groups.⁷⁵ It is noted however that only the GOS and the SPML/A-M were privileged to seat at the negotiating table while other political parties from the north and the south were left out.⁷⁶ Who gets a seat and who does not matters a lot in peacemaking since active participation of those given an opportunity potentially generates domestic political support, international legitimacy and secures their influence in post-conflict state institutions in addition to giving value to the element of inclusiveness.

IGAD as was the case with the mediation used a first generation/traditional conflict approach which is exclusive in its nature other than the 21st century approaches which are inclusive in their nature. Lanz (2010:275) indicated that the factors of practical requirements and the international norms inform the dynamics of inclusion and exclusion of entities in peace negotiations (**See table 2.1**). Similarly Peace Accords Matrix in the same chapter 2 indicates that agreements require the involvement of major parties (those with influence) in its definition of a CPA.

⁷⁴ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

⁷⁵ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

⁷⁶ According to General Sumbeiywo, 12 September, 2013, Nairobi-Kenya, on these groups included; the National Democratic Front (NDA), which included the Democratic Union Party (DUP), UMMA party, People's Congress Party (PCP), Sudan National Labour Party (SNLP), Sudan Liberation Movement (SLM), BEJA congress, among others), other armed groups (South Sudan Defence Forces (SSDF), SPLM/A United, Sudan Liberation Army (SLA), Justice Equality Movement (JEM), Eastern Nuba Mountains groups, states which at some point were involved with the conflict (Egypt, Saudi Arabia, Kuwaiti, Iraq, Libya and Iran), civil society and grassroots citizens and the media

The *realpolitik* approach of only stakeholders who add value to the process and augment the chances of reaching a sustainable settlement to be given seats at the table, regardless of normative factors was used maximally in the context of the mediation/negotiation determination of the actors who had to be at the table at Machakos and later Naivasha. This arrangement whereby others were left out was not in the best interest of conflict resolution which was supposed to ensure the achievement of complete negative peace and eventually positive peace. Those left out naturally continued fighting and even after an agreement they would be spoilers of the settlement. Likewise by leaving out the other groups, IGAD narrowed its broad based perspective which it had set out in the DOPs.

These actions in essence killed the spirit of the Galtung's ABC conflict triangle theory whereby attitudes are not to be hostile, behaviour not to be violent and the contradictions in terms of the conflict structure changing as part of a conflict resolution/transformation process. Likewise peacebuilding activities could not effectively take place and thus liberal peace as advanced in the Liberal peace theory could not be achieved.

4.3.2 Conduct of the negotiations

The negotiations of the Sudan CPA initially involved teams of negotiators from the GOS and the SPLM/A-M at Machakos, but was narrowed down to two people, Osman Taha (Vice President of Sudan at the time) representing the government and John Garang representing the SPLM/A at Naivasha. One of the respondents had this to say about the negotiations during the Naivasha phase "Negotiations alternated between the two leaders alone with no one else permitted to sit with them. The chief mediator, the Troika observers and the experts in this case were not even allowed".⁷⁷

This arrangement was a direct result of the mediators who restricted the participation of the parties may be guided by the practical requirements and the normative dimension perspectives in order to achieve the best out of the exercise. The negotiation approach which was used at Machakos to come up with the framework

⁷⁷ Interview with Nhial Deng Nhial, 5 July 2013, Juba, South Sudan.

agreement was more practical and better in its approach to resolve the conflict than the later process at Naivasha which only involved the two principals of the parties.⁷⁸

During the Machakos phase, the two groups of the negotiators adopted a problem solving approach whereby the members were given opportunities to give their views even although they had to consult their leadership on crucial decisions. To the contrary, during the Naivasha phase issues were negotiated only by the two principals without inputs from their colleagues⁷⁹.

According to Young (2012:106), leaving the negotiations in the hands of only two people assuming they would continue to be influential to resolving the conflict, risked losing institutional memory and continuity. Rogier (2005:93-94) argues that the negotiation exercise by the two individuals reduced the role of the IGAD mediators supposedly in place to provide guidance and direction and who also could have acted as witnesses in cases of departures from some of the agreed issues later after the process. The death of Garang six months after the signing of the agreement is a case in point in this regard.

The negotiation approach whereby the two leaders from only two parties in a conflict which involved many parties and groups sat alone in a room without others missed out on contributions from others who could have added more to the process and on the issues which could have assisted in the context of conflict resolution.

The exclusion of the other members of the two parties it is noted affected the content of the settlement and the aspects of conflict resolution/transformation.⁸⁰ The view is that those who were not involved were senior people in the parties and by being locked out by their leaders felt neglected and cheated. Likewise by locking out the mediators, the negotiations lost out more in the context of their oversight and advice. Members of the delegations and the mediators did not know some of the issues which had been discussed by the two leaders.

⁷⁸ Interview with a northern Sudanese negotiator, 27 October 2013, through a telephone conference Bradford: United Kingdom

⁷⁹ Ibid.

⁸⁰ Interview with Idris Mohamed Abd AL kadal

As is advanced in the Galtung's ABC theory, the attitudes and the behaviour of those left out still remained violent and hostile and that due to the status quo, the conflict structure could not be transformed. Liberal peace as espoused in the Liberal peace theory could not be realised as it would be difficult to carry out peacebuilding activities which support it later in the process.

Similarly, the NCP which was the GOS party at the negotiations opposed allowing the NDA to the negotiations because it feared that its members would gang up on them and confuse its agenda. In a similar context the SPLM/A on the same feared that members of the NDA could make a common cause with their Northern colleagues and that such participation would side track the North-South faces of the negotiations⁸¹.

Young (2012:109) states that NCP feared that the SSDF which was comparable in strength to the SPLM/A would make common cause with the SPLM/A and create problems whilst SPLM/A viewed them as NCP puppets whose presence could have undermined their claim of militarily controlling most of the areas in the rural Southern Sudan on the part of the other Armed groups in the conflict.

The exclusion of the other political parties and the armed groups to take part in the negotiations, it can be claimed ignored the intra-regional differences of the country and wrongly made an indication internally and externally that the NCP led government and the SPLM/A-M were homogeneous blocs in the regional divide. This status quo did not help the factor of conflict resolution/transformation in that the root causes of the conflict could not be removed. Peace could not be built as there was no foundation on which it could be built on as the other actors were locked out.

The conducted negotiations focused to achieve partial negative peace only and not to resolve the conflict completely and to build peace which could have achieved positive peace. One respondent had this to say; "The CPA was an extended ceasefire to allow our fighters to rest, re-arm and once refreshed to return to fight.

⁸¹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

There can never be genuine peace between the north and the south. We are different”.⁸²

The omission of the civil society as the grassroots representatives from both north and south Sudan in the negotiations, created a problem regarding conflict resolution. Complicating an already difficult process, less secrecy in view of the principles of civil society, requirement of a serious research to determine the authenticity of the various organisations for consideration to be at the table and advancement of proposals on how they could be involved were the justifications for the absence of the civil society at the table by the IGAD and the parties involved with the negotiation (Young, 2012:113-114).

The inclusion of the civil society could have served well in overcoming the claim of a lack of democratic legitimacy of the parties which were at the table and assist in clarifying the contention that the process lacked the support of the Sudanese people. The claim translated a lack of ownership of the agreement by the people of the north and the south considering the fact that NCP came into the government through a coup and the SPLM/A through a mutiny – which then made them both not to be legitimate representatives of the constituents in their regions.⁸³

Lanz (2010:282) as in chapter 2 states that civil society builds popular support for the implementation of an agreement and supports the consolidation of peace in the long run. The absence of the civil society at the negotiating table of the Sudan conflict can in this regard be viewed to have been a problem as it meant losing out on most of the aspects that involve conflict resolution in addition to the question of the lack of legitimacy of the concerned parties. The chief mediator had this to say:

“We attempted to include everybody from north and south Sudan who could assist in the peace process but it must be understood that not everybody could be there. The ballot box later in the process gave everybody a chance to contribute”.⁸⁴

This position translates that IGAD defended the position of excluding other stakeholders who could have assisted with the conflict resolution process. This was

⁸²Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

⁸³ Interview with Hilde Johnson, 22 October 2013, through a telephone conference, Bradford: United Kingdom

⁸⁴ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

a direct translation that the old approaches of conflict resolution are exclusive in nature and a preserve of soldiers, diplomats and the political elite which do not really assist to resolve the underlying roots of conflict. Bercovitch and Jackson (2012:186), however, state that the issue of inclusiveness requires careful consideration for fear of creating chaos during the negotiations and spoilers later during the implementation phase of the peace process. IGAD may have justified their reasons from this point.

The 21st Century conflict resolution approaches are non-exclusive processes which involve Track II practitioners, NGOs, civil society groups, the media and individuals with a stake in peace processes (Bercovitch and Jackson (2012:186). Exclusions of the groups in the Sudan negotiations provided ground for spoilers later in the process who affected negative peace and even the process of positive peace.

The government of Sudan for a long time had been supported by Egypt, Saudi Arabia, Kuwait, Iraq, Libya and Iran while the SPLM/A at different times was supported by Ethiopia, Eritrea, Uganda, Kenya and Libya (Antwi-Boateng and O'Mahony, 2008:138). Despite this knowledge that these countries helped to fuel and sustain the conflict in Sudan, apart from those in the IGAD, were not included in the process and not even as observers.

Their presence could have assisted to legally bind them to stop their destabilising support to any of the conflict parties and even in contributing to some of the protocols which in turn could have assisted the conflict resolution process in the country⁸⁵. Thus, the CPA negotiations and the conflict resolution approach did not resonate well with the reality on the ground due to the failure to include some of the most important actors who were supporting and sustaining the conflict. No reason could stop these countries continuing providing support to the parties in Sudan which in essence meant failure to achieve complete negative peace and eventually even positive peace.

According to Reimann (2004:3) as in chapter 2, core elements of negotiation include the parties, the issues and the context. The parties' part is important in regard to who should be represented at the negotiating table as part of the inclusion and exclusion

⁸⁵ Interview with Dr Abdelwahab EL-Affendi, 22 October, 2014, London: United Kingdom.

criteria. Success or failure of peace agreements depend on the seriousness of negotiators to sell the accord to their constituents and to deliver on any concessions or reforms agreed on. This means that if other parties are left out, the selling of the peace ideas to the constituents of the locked out parties cannot take place. In such circumstances, attitudes, behaviour and the conflict cannot be changed or transformed. The conduct of the negotiations created dilemmas for the parties involved in the Sudan conflict and ended up affecting negative peace and positive peace as are advanced in the Galtung's ABC conflict triangle theory and the Liberal peace theory.

4.3.3 The outcomes of the negotiations

The outcomes of a negotiation process are important for the resolution and the transformation of a conflict in order to achieve peace. The core concerns of the southerners included the question of national identity, the socio-economic and political gap between the centre and periphery and the constant threat of 'Arabisation and Islamisation' by the northern elite (Raftopoulos and Alexander, 2006:25). The core concerns in this regard were the substantive issues which the CPA through the negotiation process was to address in order to resolve and transform the conflict. Substantive issues advanced by parties form the basis of the solutions of a settlement. These originate from the core concerns which require addressing during the mediation/negotiation process (Darby and MacGinty, 2008:63).

Ramsbotham et al. (2011: 187) state that outcomes of negotiations are either integrative or distributive in their nature. Integrative outcomes though not favoured by parties work well for conflict resolution/transformation. The outcome of the negotiations between the NCP and the SPLM/A was a long agreement comprising six agreements and two annexures together which came to be called the 2005 Sudan CPA after being signed on 9 January 2005 in Kenya (Brosche,2009:6). The CPA in this regard was a collection of partial agreements.⁸⁶

⁸⁶ The partial agreements that came out from the negotiations referred to as protocols were; the Machakos protocol, the security arrangements protocol, the wealth sharing protocol, the power sharing protocol, the resolution of the Abyei conflict and the protocol on the resolution of conflict in Southern Blue and the Nuba Mountains.

Although the outcome was referred to as comprehensive, other issues remained unresolved whilst others were not even touched. The issues of religion and the state and the question of the national identity are cases in point.⁸⁷

The extent of any agreement is important particularly in terms of the degree to which it deals with the constitutional, territorial and security aspects that lie at the core of a conflict otherwise it can merely be concerned with the manifestations of the conflict (Darby and Mac Ginty, 2008: 199). There are many types of conflicts however conflicts over political order and settlements in them entail the re-creation of the conditions for a viable common political order.

The position that certain issues remained unresolved or untouched translates that the negotiations failed to tackle some of the substantive issues which could have re-created the conditions for the viable common political order. Some of the dilemmas the parties faced explain the tensions or threats to a return to war even after southern Sudan separated from Sudan.

The CPA as a broad outcome essentially partially managed to end the north- south Sudan conflict. Conflict resolution implies that deep rooted sources of conflict are addressed and transformed (Ramsbothan et al. 2011:31). This could not happen as some of the substantive issues which were part of the core concerns of the SPLM/A as a rebel movement were not resolved. A respondent was of the view that “resolving the conflict was important but we could not compromise some of the country’s national interests”.⁸⁸

The attitudes, behaviour of both the contending parties still remained violent and hostile and imply that the conflict could not be resolved and transformed. The Galtung’s ABC conflict triangle theory in this case could not take root and likewise due to a lack of key basis for achieving peace, liberal peace as advanced in the Liberal peace theory could not be attained.

⁸⁷ Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

⁸⁸ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

4.4 The perspective of the CPA protocols

The outcome of the mediation and negotiation of the CPA which took place at Karen, Machakos and finally Naivasha in Kenya were protocols which were meant to systematically address the concerns which had been at the heart of the Sudan conflict. Against the background of the core concerns, the IGAD mediation and the negotiation between GOS and the SPLM/A-M that took place produced six protocols which were supported by two annexures (Sudan 2005 CPA).

For Bischoff (2007:3) as in chapter 2, the key elements in a peace agreement includes its formal nature, the conditions that signal the intention to end hostilities, indications of what has been resolved and what is likely to happen thereafter. In the context of the CPA protocols, it can be claimed that each one of them was meant to contribute to the ending of the conflict and furthermore to bring about durable peace. This meant bringing an end to the hostilities (negative peace) and thereafter social justice being pursued (positive peace) which eventually would translate the underlying sources of the conflict being addressed (conflict resolution/transformation).

The protocols missed a lot of points which could have made them more solid and robust for the purposes that they were intended. One of the respondents had this to say: “[w]e attempted to include as many details as possible but as I already explained, it was difficult as the chairman and the vice President were the final authority”.⁸⁹ My take on this is that most points could not be included due to the decisions of the two leaders.

This position points to the origins of some of the dilemmas which the parties faced at the time and thereafter the tensions and threats to a return to war being experienced even after South Sudan separated from Sudan. Due to these factors, the protocols could only achieve partial negative peace and not positive peace.

4.4.1 The Machakos protocol

The Machakos peace protocol was signed on 20 July by the GOS and the SPLM/A. It was not necessarily a peace agreement but an agreement on the framework for further discussions about peace. The protocol specified the core principles of the

⁸⁹ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

governance of the country and details for the transition period until a referendum could be held against a background of claims of separation of state and religion within a federal state and the exercise of the right to self-determination through a referendum as major issues (Johnson, 2001:53).

The special envoy General Sumbeiywo described the relationship of the DOPs and the Machakos framework/protocol (Young, 2012:95). Although Machakos was viewed as a simplification, in actual sense it had completely departed from the DOPs. With respect to the differences, while the DOPs called for the separation of the state and religion in the whole of Sudan, Machakos only endorsed the principle in southern Sudan which was an express translation of moving away from a broader vision of Sudan's problems to meeting the immediate needs of the parties.⁹⁰

In addition to this contradiction, while the DOPs made the right to self-determination subject to failure of the national government to introduce democracy, secularism and fair distribution of resources, Machakos granted the south the right to self-determination after a transitional period irrespective of any changes within the state by the government.

Lesch, (1998:12) defined self-determination as a concept of individual and collective rights to freely choose political status and other freedoms. This definition translates that the parties at the table took differing positions which had implications in terms of conflict resolution/transformation specifically in the context of the implementation of the agreement. The right to self-determination was a solution advanced in order to collectively address all the core concerns as the substantive issues by the SPLM/A.

Young (2012:94) states that Garang was upset when he learnt that his deputy, Salva Kirr had signed the Machakos protocol which had the right to self-determination with an option for South Sudan to separate in it and in reaction removed him as the leader of delegation of the SPLM/A's negotiating team. Similarly, the GOS criticised its leader of delegation, Dr Salahudin Ghazi for signing the protocol and as a show of displeasure relegated him to a mere team member of the negotiating group during the subsequent negotiations meeting (Johnson: 2011:13). A respondent said that: "[t]here wasn't unanimity with the delegation or with the government. Before I signed,

⁹⁰ Interview with Douglas Johnson, 22 October, 2013, Oxford: United Kingdom

I had received an urgent call from a senior member of the government who advised me not to sign”.⁹¹

On the same within the Troika, the USA on hearing about it rejected it and claimed not to have been consulted thus towing the line of its special envoy Senator Jack Danforth who thought that the problem of Sudan could be resolved by just dividing the oil resource⁹². The UK stated that the south was not ready to be on its own and as such required to be under somebody- thus appeared to be vague but was seen to be in favour of Khartoum’s position while Norway and Italy expressed happiness at the development –thus indicating favouring the protocol and the aspect (Waihenya, 2006:146).

From the different positions that the parties took on the position of the right to self-determination, the parties did not mediate and negotiate the protocol in good faith and as such did not own the agreement fully despite having appended their signatures to it. The agreement could not achieve complete negative peace and that positive peace through peacebuilding activities as part of conflict resolution in line with its theory of liberal peace could be difficult to advance as some of the international backers who could support its grounding were indifferent to it.

The narrowing of the scope of the negotiation by Machakos from a broad base of the DOPs implies that conflict resolution would be difficult because other areas which were part of the conflict system were left out and likewise issues which initially covered the whole Sudan were reduced to only those of north and south Sudan. What this scenario entails is that only partial negative peace could be achieved between GOS and SPLM/A and the conflict continuing in the other areas of the country which effectively dwarfed the chances of positive peace. This scenario explains the tensions and the threats to a return to war in Sudan at the time and now between the two Sudans.

On a different note, Machakos used the 1 January, 1956 boundary as the basis for the definition of northern and southern Sudan. The exercise was meant to simplify the reference of the area in contention (Johnson, 2011:59). This act was problematic

⁹¹ Interview with Said al Khatib, 27 October 2013, Oxford-UK

⁹² Senator Jack Danforth was a USA special envoy tasked with responsibility of overseeing the Sudan peace process.

in the sense that it curtailed any discussions that would concern any other area in Sudan other than the south.

Southern Blue Nile state which is in the northern most part of South Sudan had parts of it as part of the Closed District Ordinance during the condominium.⁹³ Abyei however which now is in Sudan was only transferred to Southern Kordofan in 1905 for administration purposes from Bahr el Ghazal which was in southern Sudan now South Sudan. Southern Kordofan especially the Nuba Mountains area in Sudan shares a border area with South Sudan. The people in these areas (Bahr el Ghazal in South Sudan and Nuba Mountains and Abyei in Sudan) have common characteristics. The irony about this point is that at the time, SPLM/A was in control of these areas and fighting under the slogan of 'the new Sudan vision' which was generally about the unity of Sudan as has been articulated in chapter 3.⁹⁴

The 1 January 1956 boundary as a basis of defining the northern and southern Sudan regions was really not a good idea in the context of conflict resolution based on the facts as articulated above. This should have been left and considered later in the process on a case by case basis of the areas as a hard position on the demarcation could not assist to achieve negative and positive peace in the two regions. This position suggests that the state of affairs from the approach of the 1 January 1956 boundary demarcation between northern and southern Sudan created a hard position for further bargaining of the border issue later in the process.

SPLM/A in the protocol allowed Sharia to remain as the source of legislation in the north while the south was to be governed by a secular legislation. As a reciprocation, the GOS accepted an internationally monitored referendum that would be held after a transition period of six and half years in which the south would decide whether to

⁹³The condominium was an agreement of joint authority which was exercised by Britain and Egypt over Sudan from 1899 to 1956. The agreement designated territory South of the twenty-second parallel as the Anglo-Egyptian Sudan (Woodward,1990:15) while the Closed District Ordinance was a local order which the British had imposed in Sudan to allow the South to develop along indigenous lines by closing it to outsiders especially northerners (Poggo,2009:22).

⁹⁴ New Sudan vision was a concept developed by Dr John Garang, leader of the SPLM/A in which was a message to show that SPLM/A was not a southern party only, but one which was fighting for a united Sudan. Its message was creation of united Sudan under a socialist system that affords democracy and human rights to all nationalities and guarantees freedom to all religious beliefs and outlooks (Natsios, 2012:68).

separate or continue to exist within a united federal Sudan as an acceptance of the south's demand on the right to self-determination(CPA articles 2.5 and 6.4).

The bases of the conflict in Sudan were the core concerns of those in the periphery of the state, which the SPLM/A-M was representing.⁹⁵ This state of affairs required that any agreement be designed to engage Sudan as a multi-racial, multi-ethnic, multi-religious and multicultural society in order to address the concerns. Machakos by allowing the south and the north to have different sources of legislation in the context of religion was a failure to address the threat of Arabisation and Islamisation as one of the core concerns advanced by the southerners.

Likewise the protocol denied the Muslim majority of northern Sudan the basic right to decide whether they wanted the version of Islam which had been imposed on them by a government which came to power through a military coup. The fact that the forum accepted the North to continue embracing the Islamic law and the south to embrace secularism was a direct translation of the making of unity attractive clause in the protocol untenable and a clear manifestation of failure to manage and eventually resolve the conflict. Even complete negative peace could not be attained as both the parties would still be fighting through proxies. This shows some of the dilemmas that parties faced during the period and may explain the tensions and threats to a return to war now in the two states.

The action of separating the north and the south in religious terms provided a fertile ground for a security dilemma between the two areas. As time went by, the two areas became used to the idea that they were separate from the other and as a measure of defending themselves, all the time competed in arming themselves in order to be superior to the other. The parties in case of any trigger could easily go to war with each other. This suggests that conflict resolution was being undermined as the attitudes and the behaviour of the actors were still hostile and violent and that the conflict structure could not be transformed as is advanced in the Galtung's ABC

⁹⁵ According to Rogier (2005:24), the core concerns by the constituents of the periphery against the GOS included the threat of Arabisation and Islamisation by the Northern elite, question of the national identity, socio-economic and political gap between the centre and periphery and marginalisation of the people in the periphery.

conflict triangle theory. Later in the process positive peace as is advanced in the Liberal peace theory could not be attained.

The differing perceptions of the right to self-determination by the Machakos protocol and the DOPs, the use of the 1 January 1956 boundary as the basis for the definition of north and south Sudan and Sharia as a source of legislation in the north while the south had a secular legislation were problematic to the parties. It is noted in this regard that they are indicative of the dilemmas that the parties faced at the time and may explain the tensions and threats to a return to war at the time and now being experienced in the two Sudans.

Ramsbotham et al., (2011:175-176) state that conflicts are inherently dynamic and that conflict resolution has to engage with a complex of shifting relations often within a wider system that has become resistant to piecemeal changes. This position serves the interpretation of the Sudan conflict well in the context of all the approaches which were taken as part of conflict resolution.

4.4.2 The security arrangements protocol

The security arrangements protocol was signed on 20 September, 2003. According to Rogier (2005: 120), the objective of a security plan under a peace agreement is to ensure that armed factions responsible for potential violence have been neutralised and reintegrated into society and for government to assert legitimate control over security via lawfully constituted security personnel assisted by a sustainable level of involvement by international forces. The security arrangements protocol was supposed to be designed in these lines in order for it to contribute to negative peace and as a basis for positive peace.

The major concessions of the protocol basically included; the Sudanese Armed Forces (SAF) and the Sudan People's Liberation Army (SPLA) to remain largely separate armies during the interim period, although they were to be treated equally as Sudan's National Armed Forces (SNAF). It was also planned that should unity be opted for by the southern voters during the referendum, the forces were to form a single Army of Sudan but at the time the two forces were to deploy to their respective sides of the 1956 border (SAF to go beyond the 13th parallel towards the north and the SPLA beyond the 12th parallel towards the south) (**See figure 3.1**). Other details

included all Other Armed Groups (OAGs) to be disbanded, creation of Joint Integrated Units (JIUs) composed of equal numbers of soldiers from SAF and SPLA (JIUs earmarked to be the nucleus of the national army should unity be opted for during the referendum) and finally creation of a Joint Defence Board (JDB) which was to be under the presidency to coordinate the two forces and to command the JIUs (Raftopoulos and Alexander, 2006:34) and **(CPA chapter 6, Article 6.1-6.5)**.

Sriram (2008:21) states that security, territory, politics and economics are the most important dimensions that feature highly in negotiations and peace agreements. The security arrangements of the Sudan CPA were basically a power sharing arrangement with focus on the security factor.

Hoddie and Hartzell (2003:309) state that four most common methods used in sharing military power include; creation of a new military and /or police force by drawing members from the fighting forces (state and non- state) in proportion to their former size, creation of a new force drawing equal numbers from former fighting forces, appointment of weaker or non-dominant armed factions to key leadership posts in the security forces and permitting combatants to keep their own security or fighting forces. The latter is what was arrived at during the 2005 CPA negotiations as part of the security arrangements protocol.

The decision to have two separate armies in one country, have them live in two separate domains and with different command structures was a problem in the context of conflict resolution. The arrangement it is noted was a fertile ground for developing a security dilemma as the existence of each would definitely end up threatening the other which with time would eventually lead the two forces to a physical confrontation.⁹⁶ This means that the arrangement was only positive in the sense of making the guns silent for a period (negative peace) but could not assist in the context of positive peace as part of conflict resolution/transformation.

Conflict resolution/transformation implies addressing the deep rooted sources of conflict so that behaviour is not violent, attitudes are not hostile and the structure of the conflict being transformed (Ramsbotham et al., 2011:31). The agreement to have

⁹⁶ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

two separate armies in one country was a clear indication of lack of trust between the negotiating parties.

Chapter 2 established the existence and importance of African indigenous conflict resolution approaches which differ from place to place on the continent. African traditional approaches of resolving conflict emphasise social trust building and restoration of the conditions for communal co-existence and if this was absent during the negotiations of the agreement, then chances of conflict resolution/transformation could be limited even if the agreement was signed by the two parties (Murithi:2008:17). This position suggests that an indigenous dimension at some point could have assisted in some way to resolve the conflict.

Despite the two armies being designated as parts of a national army, the GOS refused to take the responsibility of funding the SPLA, meaning that the SPLM was to be responsible for the administration of its force⁹⁷. This implies that the two forces were considered to be different from the other and that it may have confirmed the SPLM's claims of marginalisation by the GOS. Negative peace in this case became difficult to achieve.

The attitudes and the behaviour of the SPLM/A could not change and as such the conflict structure could also not be transformed. In this case the Galtung's ABC conflict triangle theory could not take root and likewise Liberal peace as advanced in the Liberal peace theory achieved through peacebuilding activities in the implementation phase could not be attained.

The protocol only recognised the SAF and the SPLA as the legitimate forces in Sudan while all the OAGs were to be disbanded. OAGs in Sudan referred in particular to the Southern militias who were affiliated to the GOS like the SSDF which had been receiving support from the government since the agreement they had signed with the government in 1997 (Rogier (2005:124),).

The CPA Chapter IV, Article 7 of the protocol states that the OAGs shall be incorporated into the recognised forces of either party (Army, Police, Prisons and Wild life forces) or re-integrated into the civil service and civil society institutions

⁹⁷ Interview with Said al Khatib, 27 October 2013, Oxford-UK

within a year. It is a known fact that the SSDF as one of the OAGs was a force which was comparable to the SPLM/A-M in terms of capacity. The fact that these OAGs from all the locations in Sudan were not included in the negotiations of the protocol/whole agreement meant that they were not aware of these developments.

Even if the SAF and the SPLA were made to stop fighting, these groups continued fighting and thus in essence imply that the protocol could not achieve complete negative peace.⁹⁸ This explains the tensions and the threats to a return to war that are there between the states of Sudan and South Sudan.

Rogier (2005:126) states that the deteriorating security conditions in South Sudan since 2003 suggest that Khartoum is still able to use its influence on some of the OAGs (SSDF) members to undermine rather than to foster peace with South Sudan. Similarly the activities of the SPLM/A now called Sudan People's Liberation Movement/ North (SPLM/N) in Southern Kordofan and Southern Blue Nile states in Sudan indicate the influence of SPLM/A-M in Sudan in terms of threat to peace.

The developments of these scenarios in Sudan mean that unless the components of the SSDF and the SPLM/A in both Sudan and South Sudan become accommodated and included in the political and military administrations, they would remain potential spoilers both independently and at the service of other actors.⁹⁹ This situation presented dilemmas to the parties and made the case of complete negative peace and even positive peace to be a problem to achieve in Sudan and now in the two Sudans.

The JIUs as a creation of the protocol also seem to have been a problem in the context of negative and positive peace. The terms joint and integrated were problematic in the sense that literal meaning of the former means deploying forces side by side but retaining own command and control while in the later, means merging and being placed under a single command.¹⁰⁰ Lack of clarity in these terms and how the units were to operate created a fear that at some point the forces were

⁹⁸ Interview with Salih Kaki, 18 October 2013, Bradford: UK

⁹⁹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

¹⁰⁰ Interview with General Lazarus Sumbeiywo, 12 September, 2013, Nairobi: Kenya.

going to be a source of violence most specifically in terms of their relationship which had a history of animosity.

Similarly the protocol lacked the details on what would happen if the South opted for separation. The JIUs would be abandoned and as such would be a source of violence and insecurity in the areas that they were in. This played out after southern Sudan voted for separation. The negative peace which has been there has been undermined due to their activities and similarly it has been difficult for positive peace to thrive. The scenario indicates how the CPA was tested and the dilemmas that the parties faced. This may explain the tensions and the threats to a return to war in the two Sudans and between them.

Thomas ((1987:1) states that security does not simply refer to the military dimension alone as it has often been assumed, but includes the whole range of dimensions of a state's existence which are taken care of in the more developed states for example internal security of the state through nation/state building, the search for secure systems of food, health, money and trade.

At the time of the negotiations, Sudan had problems of IDPs within the country, refugees in the neighbouring countries and others, a national security institution which was controlled by the GOS and matters of persecutions of the Christian churches and slavery¹⁰¹. These aspects were serious security issues which are argued to be some of the factors which were fuelling the conflict in Sudan. The non-inclusion of these issues as serious security concerns in the protocol meant that the attitudes and the behaviour of the parties could not change and thus the conflict structure could not be changed as is advanced in the Galtung's ABC conflict triangle theory. This translates that complete negative peace could not be achieved and likewise due to poorly targeted peacebuilding activities liberal peace could not be attained as is advanced in the Liberal peace theory.

The protocol concentrated more on the state's security other than the human security part which was a critical area. In regard to the whole security protocol then, it leaned more towards addressing the negative peace part hence its concentration

¹⁰¹ Interview with Bona Malwal, 22 October 2013, Oxford-UK

on the armed forces only and the overlooking of the positive peace part. Peacebuilding activities which could lead to positive peace to achieve liberal peace in this case as advanced in the Liberal peace theory could not be realised.

4.4.3 The wealth sharing protocol

The wealth sharing protocol was signed on 7 January 2004. The main concessions in the protocol were; establishing funding facilities for reconstruction and development, sharing of oil and non-oil revenues and the banking system focusing mainly on southern Sudan and not any other area in Sudan (**CPA Chapter III, Articles 1, 2 &3**).

The reasons for both state and non- state parties concern about post-conflict distribution of wealth and control over resources among others include; selfish reasons (well-being of cadres, leadership and looking after real or desired constituents), paying of fighters (which promote predatory or rent seeking behaviour), distribution of resources as one of the critical reasons that the conflict is for and fear of rivals receiving greater economic benefits which can in turn assist them to develop greater social power and capital or status (Sriram (2008:25). The wealth sharing protocol really revolved around these lines of reasoning with focus to address some of the core concerns which included the socio-economic and the political gap between the centre and the periphery.

The starting point of the wealth sharing deal is viewed as the differences that were there between the centre and the periphery as was discussed in chapter 3, whereby it was viewed that resources for the state were only benefitting the centre and its few northern elites while the periphery representing the other parts of the country (southern Sudan and other areas in the East, West and the remote northern areas) was not being considered (Collins, 2008:134). There was an unequitable distribution of resources situation in Sudan.

The exclusion of the other parties at the negotiating table however meant that the discussions for wealth only centred on north and south Sudan as the negotiating

partners against a background of other parties and areas being involved and fighting alongside either the government or the SPLM/A.¹⁰²

Cases in point were SSDF in the south aligning with the government, SPLM/A-M aligning with northern political parties under the umbrella of the NDA (which included militia groups in the Nuba Mountains -Southern Kordofan and Blue Nile state in the North, Beja Congress and the Rashaida in the East) and a stand-alone conflict in the west in Darfur between the government and militia groups. This suggests that any solution which came out during the CPA wealth sharing protocol negotiations had implications in the other areas of the country.

War continued in these mentioned areas and resulted in failure to achieve complete negative peace and at the same time positive peace becoming difficult to attain. The tensions and the threats to a return to war then in one Sudan and now in the two Sudans may have been caused by this situation.

Only oil and non-oil revenues from southern Sudan were to be shared. Johnson (2011: 117), states that the main controversy stemmed from the fact that the location of most of the oilfields are in the south and due to this fact, the southerners developed a strong feeling that the oil was theirs. The SPLM/A's point of departure was therefore that the oil was in the south and in that light any agreement had to reflect that fact while on the other hand, government held that natural resources were national resources and further argued that it had engaged foreign companies to prospect the oil, invested on the infrastructure and as such was to be a major beneficiary of the investment through the revenues.¹⁰³ The outcome of the negotiations on the oil revenue sharing at the end was that 2% was earmarked for the oil producing areas/states and 50%-50% shares of the balance to the GOS and SPLM/A (**CPA Chapter III, Article 5.6**).

The sharing of the oil revenues if it was indeed a national resource was unfair to the other areas of Sudan especially those which were in the periphery away from north and south Sudan. The exercise would not help to end the war as the other areas would still be fighting the GOS for their share as well. The facts on the ground were

¹⁰² Interview with Adams Oloo, 12 September 2013, Nairobi- Kenya

¹⁰³ Interview with Muriuki, 13 September 2013, Nairobi – Kenya

that no southerner knew how much oil was being produced at the wells, the quantities that flowed through the pipelines to the refineries in the north, how much went into the oil tankers that went on the high seas and the quantity of oil traded at the intricate world markets.¹⁰⁴

The arrangement was unfair in the context of making unity attractive and the defacing of the marginalisation claim by the southerners. A better approach would have been to consider the comprehensive definition of the country's economy or the country's GDP and use it as the basis for the sharing exercise. The way this aspect was worked out encouraged both parties to view themselves as different from the other and in the process encouraged continuation of fighting between them and thus negative peace and even positive became difficult to achieve.¹⁰⁵ The oil and non-oil revenues in this case also explain the tensions and threats to a return to war at the time and even now in the two separate Sudans.

The parties had agreed to use the 1 January 1956 boundary as the basis for the demarcation of Sudan and South Sudan (**see figure 3.1**). Thomas (2009:19) in the case of the oil resource states that 75% of the oil production came from the south, another 15% from areas of Abyei claimed by southern Sudan and that most proven southern reserves are near the border of the two areas. Considering the fact that oil was a major resource for the country's economy, both parties were forced to concentrate their military forces in the areas which means that the issue of oil became militarized. This status quo could not make unity attractive as each party was already in a state of war with a view to protect their most prized resource 'oil'.¹⁰⁶

This suggests that peacebuilding as part of conflict resolution could not take place in the areas due to the posture that each of the parties had taken and as such complete negative and eventual transition to positive peace could not be realised as are advanced in the Galtung's ABC conflict triangle theory and the Liberal peace theory.

¹⁰⁴ Interview with Anna Ito, 8 July 2013, Juba- South Sudan and Interview with Bona Malwal, 22 October 2013, Oxford-UK.

¹⁰⁵ Interview with Professor Muriuki, 13 September 2013, Nairobi: Kenya

¹⁰⁶ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

The protocol included an agreement of dual banking and monetary system whereby two banks (Central Bank of Sudan in the north and the Bank of Southern Sudan in the south) would operate and two currencies would circulate during the interim period (Rogier, 2005:132). The arrangement reflected Sudan's conflicting identities in that the central bank of Sudan would operate according to the Islamic law while the Bank of Southern Sudan which was going to be created would apply conventional banking regulations.

Similarly, in the context of the monetary system, failure to agree on a single currency, the Sudanese Dinar more associated with Islam remained the currency for the North while the South was to use multiple currencies which included Kenyan and Ugandan Shillings, USA dollars and the Sudan Pound until the Central Bank could design a new currency that would reflect the cultural diversity of Sudan which at the time was even doubtful considering the positions of the parties at the table.¹⁰⁷ The evidence given here suggests that the two parties failed to resolve the national identity question, separating state and religion and to encourage each other to make unity attractive as was envisioned in the Machakos protocol and by the whole CPA.

This position translates that negotiation as a method of conflict resolution failed on this protocol as what came out clearly made an indication that the two regions did not want to live together in one country. Similarly, in such a situation conflict would not end and peace could not be built due to the intransigence of the two parties. Complete negative peace could not be achieved and likewise due to an absence of a conducive atmosphere positive peace could not be attained as some of the core concerns had not been addressed during the negotiations.

In the context of reconstruction and development, the parties noted that South Sudan and the other war affected areas which were not in south Sudan faced serious needs in terms of basic government functions, civil administration and social and physical infrastructure (Rogier, 2005:130). This suggests that they had to be brought to the same level of socio-economic and public standards as the northern

¹⁰⁷Interview with Susan page, 4 October 2013, through a telephone conference, Bradford: United Kingdom.

states. This implies that regional imbalances between north and south Sudan were acknowledged.¹⁰⁸

In order to arrest this status quo, the agreement included the establishment of two reconstruction and development funds (Southern Sudan Reconstruction and Development Fund (SSRDF) and the National Development and Reconstruction Fund (NDRF) with the former responsible for south Sudan and the later for other war affected areas in north Sudan and likewise two Multi-Donor Trust Funds as pools for the funds from the donors (MTDFs). The arrangement was a dual mechanism for reconstruction and development of north and south Sudan which in essence defeated the purpose of making unity attractive as was aspired in the Machakos protocol.¹⁰⁹ The two areas were already being perceived as separate states which to an extent may have made the southerners to solidify their resolve to separate from Sudan.

The structure could not help to develop a nationwide view of Sudan but instead only contributed to consolidate (including the donors' perceptions) a north-south paradigm which the CPA required to overcome.¹¹⁰ This presents some of the challenges the agreement encountered and the dilemmas which the parties faced at the time. This position begins to explain the tensions and later the threats to a return to war initially as one Sudan and later as two Sudans.

Many respondents claim that the protocol had serious shortcomings in the areas of land ownership, water and other resources generally from which it gave some indications that the conflict could not be resolved between the two areas - north and south Sudan.¹¹¹ Land ownership was a problem in Sudan and that land disputes are anchored both in the history of displacements which occurred because of the civil war and in the ethnic memory of traditional boundaries between ethnic groups (De kock (2011:16-17).

The returnees (IDPs and those who had been refugees in different countries) and the residents could find themselves involved in disputes over land in both North and

¹⁰⁸ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

¹⁰⁹ Interview with Bona Malwal, 22 October 2013, Oxford-UK

¹¹⁰ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom

¹¹¹ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom

South Sudan especially in the areas which were held by the rebels (SPLM/A-M and SPLM/A United). These developments created local frictions which at most times ended up as ethnic clashes. The question of land ownership was not given proper attention and as such meant that conflict resolution failed short of the intended effects.

In an analysis, the protocol concentrated on the sharing of revenues and their management other than resources/assets which could have alleviated the problem of unequal distribution of resources and future problems of who owns what among the parties. Similarly the question of instituting different reconstruction and development arrangements also created problems in the context of making unity attractive for the two areas.

The protocol gave more to drive the separation of the two parties other than the intended factor of making unity attractive. This eventually translated a failure to remove some of the underlying sources of conflict and thus in the long run affected the reconstruction agenda. This meant that the war could not be ended completely as there were still issues between the parties that were forcing them to continue fighting and thus not being able to achieve negative peace and in due course positive peace. This may explain the problems the agreement had to endure, the dilemmas the parties faced and the tensions and the threats to a return to war then and currently in the two separate Sudans.

4.4.4 The power sharing protocol

The Machakos protocol, which provided for power sharing and granted the right to self-determination to the people of south Sudan, was signed on 26 May 2004. The right to self-determination can be exercised either within a territory (unity) or outside a territory (partition/separation) as part of conflict management (Parker, 2000:1). The right to self-determination and the options that came with it (unity or separation) was conflict management in a conflict settlement meant to contain/regulate the war between north and south Sudan.

In order to make unity attractive as opposed to separation, the parties were encouraged to agree to share power. Most scholars argue that wars that end at the peace table tend to feature power sharing outcomes either in a form of interim

governments or as seemingly permanent features of politics and that power sharing solutions ostensibly are designed to marry principles of democracy with the need for conflict management in deeply divided societies (Darby and MacGinty, 2008:195). Sudan adopted an interim government with a view to make unity attractive especially for the southerners for them not opt for separation in a referendum which was agreed on in the CPA.¹¹²

Hoddie and Hartzell (2005:86-90), as in chapter 2 views powers sharing in the context of central power sharing, territorial power sharing, military power sharing and economic power sharing as some of the ways in which power can be shared. It can be argued that power sharing in Sudan took this perspective.

Significant compromises in the protocol at the national level included issues of the presidency, human rights and democracy, elections and pre- election representations, sharia law in Khartoum as the country's capital (mostly governance of national issues), asymmetrical federalism issues which included the formation of the government of South Sudan, affirmative action for the southerners, state level representation and finally the three areas (Abyei, Southern Kordofan and Blue Nile states) which were debated under the auspices of the government of Kenya in a separate process from that of the IGAD (Rogier, 2005:107).

The power sharing in Sudan was done at three levels which were; the national level, Southern Sudan level and the local government level throughout Sudan.¹¹³ The crux of the power-sharing agreement lies in a guarantee of unity while introducing an autonomous interim government in the south. Power sharing in this context created tensions within the CPA itself as it represented the concept of two systems in one country (Haslie & Borchgrevink, 2006:29). This implies that there required to be a delicate balance between the objectives of a meaningful autonomy in the south and the maintenance of unity within the larger Sudan. It can be argued in this context that there was tension in the choice between separation and unity in the state-building process of Sudan.

¹¹² Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

¹¹³ Interview with Bona Malwal, 22 October 2013, Oxford-UK

The protocol allocated 52% to the NCP, 28% to the SPLM/A, 14% to the northern political parties and 6% to the southern political parties of the national power at the national level (Raftopoulos and Alexander, 2006:26). This arrangement implies that the large majority of the political parties in the North, the West, the East and the South could not have room to buy into the central government as large chunks of national power were pre-divided between the two parties which were privileged to sit at the negotiating table.¹¹⁴ This arrangement it is noted narrowly addressed the conflict as it only focused on the two parties (GOS and SPLM/A) whilst other parties and the OAGs were not included.

Those who were locked out or given very little national power were still forced to continue fighting for their causes which in turn meant not being able to achieve complete negative peace and eventually positive peace.¹¹⁵ This further concretises a claim that apart from the arrangement being unacceptable to others in the periphery; it strengthened separatist tendencies that have eventually brought about the ideas of the balkanization of the country. Darfur, Blue Nile and Southern Kordofan states are cases in point. Attitudes and the behaviour of the other parties in this regard still remained hostile and as such the conflict could not be transformed as is advanced in the Galtung's ABC conflict triangle theory.

The figures of the division of power among the parties as they stood, as it can be noted gave the government a mechanical advantage above all the others in that it could still manipulate issues which the others were against to especially in terms of voting in the parliament.¹¹⁶ This scenario exacerbated the conflict other than ending it. The conflict resolution approach and its methods which were used to bring about peace in this regard failed to yield good results.

Collins (2008:170), states that the NCP led government came to power through a military coup in 1989 and similarly the SPLM/A came to its' status through a mutiny in 2003 (Ibid: 139:140). Based on these factors, the two parties had questionable political legitimacy as representatives of the people since they had not been democratically elected to the positions they were claiming and thus were not

¹¹⁴ Interview with Adams Oloo, 12 September 2013, Nairobi- Kenya

¹¹⁵ Interview with Salih Kaki, 27 October 2013, Bradford- United Kingdom

¹¹⁶ Interview with Adams Oloo, 12 September 2013, Nairobi- Kenya

supposed to share power. This status quo as seen by other stakeholders in the country was a trigger to conflict in the country.

This situation suggests that the conflict which was already underway could not easily be ended and resolved. The perception in this case was that negative peace at the time and later positive peace could not be completely achieved due to the lack of legitimacy of the two parties which had usurped power illegally from their societies. The Galtung ABC conflict triangle theory in this case could not take root and likewise liberal peace as advanced in the Liberal peace theory could not be attained.

Some of the core concerns against the government were the question of national identity and the threat of Islamisation and Arabization of the whole country by the Northern elite. Considering the fact that the Machakos protocol failed to resolve the issues of sharia and the national identity between the two parties, it was challenging for the parties to share power in a government which had different sources of legislation in one country without a consensus in the articulated areas. Since no solution was reached on these two areas, negative peace could not be completely achieved as is advanced in the Galtung's ABC conflict triangle theory. Similarly liberal peace could not be attained due the absence of key peacebuilding elements as are advanced in the Liberal peace theory.

The other issues in the protocol (elements of human rights and democratisation which also included the provision for the sharing of power in the national security service, elections and pre-election of representatives, issues of the government of national unity and the three areas) were welcome developments as they would assist to bring on board the elements of positive and negative peace. What was of interest is that most of these issues however were left in the hands of the presidency.¹¹⁷ The question was how and when the issues in question were going to be planned for if at all they had to be implemented.

The feeling is that most of these activities were tabled for window dressing purposes and could not actually be given due attention later in the process.¹¹⁸ This point could not assist to resolve the conflict and to allow peacebuilding which could have allowed

¹¹⁷ Interview with Pagan Amum, 8 July 2013, Juba: South Sudan

¹¹⁸ Interview with Bona Malwal, 22 October 2013, Oxford-UK

positive peace to take root in the country. This scenario may answer the dilemmas that were faced by the parties in the conflict and the tensions and threats to a return to war at the time and even now after the separation of southern Sudan.

Similarly, if the three areas (Abyei, Southern Kordofan, and Blue Nile) were agreed to be negotiated outside the IGAD framework, how then could they be made part of the CPA and on the same, what message did this arrangement send to the representatives of the areas. This arrangement gave out a signal that all did not augur well with the conflict resolution approach which was employed and specifically the peacebuilding aspects that could have assisted to transform the conflict.¹¹⁹

The presumption is usually that the ideal outcome of peacebuilding as a conflict resolution method after armed conflict is a liberal capitalist state (Sriram (2000:21). The outcomes of the power sharing protocol could not be assumed as it is believed that most of what it stood for was a direct trigger of more conflicts at the centre and the periphery of the GOS and within the SPLM/A.

In the final analysis, the case of the power sharing protocol in the context of the 2005 Sudan CPA, mostly served the purpose of trying to achieve negative peace but erred in its process as it only involved only two parties to share enormous power and disregarded others in the country. The situation made conflict resolution to be difficult to achieve most specifically due to short sighted mediation and negotiation processes of the IGAD and the differing contents of the DOPs and the Machakos protocol as frameworks of the negotiations. Although there were traces of the aspects to achieve positive peace, most of them were limited to the narrow focus of the participation in the sharing of power to accommodate the elite of the two parties while other issues were left in the hands of the presidency without proper elaboration.

4.4.5 The Abyei protocol

Abyei is located in north Sudan along the border between North and South Sudan that is according to the 1 January, 1956 boundary although historically the area had

¹¹⁹ Interview with Leben Moro, South Sudan, 5 July 2013, Juba –South Sudan.

initially been part of south Sudan (Natsios, 2012:171-173) (see figure 4.1 & 5.1 table).

Figure 4.1-Map of the location of Abyei



Source:Google Maps :<http://www.auschwitzinstitute.org/>

The area concerned is a traditional territory of the nine Ngok Dinka chiefdoms as transferred from Bahr- al Ghazal in southern Sudan to Kordofan in northern Sudan in 1905 while the Misseriya who are nomads mostly from western Sudan come to the area only during the dry season to graze and water their animals (Johnson, 2011:35).

In this regard it can be alleged that the history of the area, the people and their activities in the area and the issues at stake in the area formed the basis of the Abyei protocol.¹²⁰ According to Rogier (2005:115-116), at the time of the negotiations, the area was under the control of the SPLM/A-M, which was fighting the government of Sudan under the concept of a 'new Sudan vision'. Main compromises in the protocol

¹²⁰ Points to note however are that the leader of the Ngok Dinka's in 1952 and 1953 rejected a British proposal for Abyei to re-join the South, that the Ngok Dinkas fought on the side of the southerners and the Misseriya on the side of the North in the two wars of North and South Sudan, Abyei had been given an opportunity to vote in a referendum in the 1972 Addis-Ababa agreement but never took place and that Abyei was one of the reasons for the second civil war in 1983.

included; the provision for the administration, the sharing of local oil revenues, and the guarantee of continued access to traditional grazing areas by both the Ngok Dinka and the Misseriya (**CPA chapter IV article 1.1**).

Abyei was transferred from Bahr el Ghazal in South Sudan to Kordofan in 1905 by an administrative order, that the area so transferred included the nine Ngok Dinka chiefdoms and no mention of the Misseriya in the transaction enhances the claims by the south to be the rightful owners of the area.¹²¹

The fact that the Misseriya as nomads come seasonally to the area to graze and water their animals creates a problem which requires resolving. Failure to consult and include the constituents of the area in the negotiations was problematic and left as it was would not stop clashes between the two entities.¹²² Complete negative peace could not be envisioned as the sources of the conflict were not removed during the negotiations.

The issue of Abyei and the other two areas (Southern Kordofan and Southern Blue Nile states) which will be covered later, were negotiated outside the IGAD mediation framework as it was contended that they were not included in the DOPs and the Machakos protocols which were the frameworks for the negotiations (Waihenya, 2006:100). The negotiations were chaired by Kenya and due to the impasse that developed between the two parties during the negotiations; the Americans intervened and drafted the protocol which was presented by the USA envoy, Senator Jack Danforth to the parties in order to break the impasse.¹²³

This suggests that although the protocol was debated upon and eventually accepted; the parties did not fully own it due to the fact that it was not authored by them and as such viewed the whole process as an arbitration in which a settlement had been imposed on them.

The fact that the parties took it on board without consulting their constituents on the ground meant that the solution could not be well received by their constituents especially on the GOS's side. This situation provided a loophole for the parties not to

¹²¹ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

¹²² Interview with Bona Malwal, 22 October 2013, Oxford-UK

¹²³ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi- Kenya

honour the protocol and for the constituents of the area to reject it. This explains the dilemmas that were faced by the parties and the tensions and threats to a return to war then and now between the two Sudans.

The loopholes of the protocol included the area to be administered not being defined and being left to the Abyei Boundaries Commission (ABC) for definition, in the case of the referendum, voters being defined as members of the Ngok Dinka community as well as other Sudanese residing in the area, basis for sharing the oil revenues (50% GOS, 42% SPLM/A and 2% each for the oil producing states and areas) and not spelling out compensations in case of the area deciding to separate (Raftopoulos and Alexander, 2005:36).

The loopholes suggest that the attitudes and the behaviour of the parties were still hostile and violent translating that the conflict structure could not be transformed.¹²⁴ Due to these loopholes violence was triggered in the area during the interim period and as such complete negative peace could not be achieved as fighting continued which in turn has not allowed positive peace to be initiated. These are some of the dilemmas that the parties faced and partial reasons for the tensions and the threats to a return to war then and now between the parties.

Rogier (2005:116), however, argues that the reasons for the government's resistance on the protocol were generally to protect the Misseriya pastoralists' seasonal access to water and grazing in the area and beyond and a fear of the potential impact on northern stability which could result from news of Abyei changing status although at the heart of the whole resistance was the issue of oil in the area as a contributor to its economy.

Resources like oil are often said to lie at the heart of many conflicts especially in Africa and usually result in commission of serious violations of human rights, violations of the international humanitarian law or violations amounting to crimes under international law (Williams, 2011:74). Sudan is prepared to do anything just to save Abyei going to South Sudan. This explains the tensions and the threats to a return to war before and now after South Sudan separated from Sudan.

¹²⁴ Interview with Susan Page, 4 October 2013, Bradford-UK

The north's position on the case of the claim by the south to the area is referred to as a poisonous thorn in its heart.¹²⁵ With the cases of oil and the security of the two parties at the heart of the conflict in the area, there is no way the conflict can be resolved and for peace to be achieved in the area. This implies complete negative peace and even positive peace not being achieved despite the protocol being in place.

In summary, the protocol, except for its loopholes could have resolved the problem of the area but due to the positions of the parties as articulated, it was anticipated would face a lot of resistance and lack of commitment which would translate continuation of the conflict through proxies. This made negative and positive peace not to be achieved as the conflict could not be transformed due to the security and the socio-economic framework factors on the Utstein pallet of peace building not being addressed (**see figure 2.3**).

4.4.6 Protocol on the resolution of conflict in Southern Kordofan and the Blue Nile states

The major concessions in the protocol include administration arrangements, autonomy in the areas and popular consultations on the status of the two areas through the state legislatures after elections, the holding of elections and institution of a land commission which would be drawn from both parties (GOS and SPLM-M) and the areas themselves (**CPA chapter V, Articles 1,3,4 and 9**).

The area referred to as Southern Blue Nile is located in Sudan and is east of the northern most part of South Sudan (**See figure 4.2**). It is however argued that parts of the area had been part of the CDO which mostly were areas of southern Sudan during the condominium and as such it is surprising that it was not considered as part of southern Sudan as per the 1 January 1956 boundary of the two regions (Flint, 2011:7). Nuba Mountains is part of north Sudan and is located in the border area between Sudan and South Sudan however although being part of the north, its population shares more of its characteristics with those of the people of South Sudan

¹²⁵ Interview with Dr Khalid, 02 December 2013. Sudan Embassy: United Kingdom.

(See figure 4.2). This is one of the reasons as to why the two areas aligned with the SPLM/A-M in the north –south Sudan conflict.¹²⁶

The history of the locations of the areas and the characteristics of the people of the areas required consideration during the negotiation of the protocol. Leaving the situation as it was translated continued opposition to the government and fighting with the government, scenarios which cannot assist to achieve complete negative and positive peace in the context of conflict resolution/transformation.

Rogier (2005:117) alleges that the Islamisation policy on non-Muslims, Arabisation of the non-Arabs, expropriation of land for use in mechanised farming schemes and use of forced labour generally translated as political and economic marginalisation were the factors that mostly alienated the people of the two areas against the government and for those reasons provided a basis for their demand for a right to self-determination.

In the context of the protocol's compromises, most of the concerns of the two areas were not addressed as had been the case with the south and Abyei.¹²⁷ Johnson (2011:174-175) confirms that autonomy was not the same as self-determination which had an option of separation and referendum not the same as popular consultations. The popular consultations did not include a provision for a radical re-negotiation of the CPA nor did it include the option of either of the states joining the south. The popular consultations were nothing of a solution but a blanket action to cover failure of negotiating the real issues.¹²⁸

Autonomy was out of question as the areas would still be under the firm control of the Khartoum government dominated by the NCP which was at the table during the negotiations, the question of land would not be addressed as the protocol did not give out the exact details on it, Sharia would still apply to the areas and that the people of the areas would not be directly consulted on the protocol since the government had rejected the option of a referendum.¹²⁹ The protocol was

¹²⁶ Interview with Muriuki, 13 September 2013, Nairobi – Kenya.

¹²⁷ Interview with Salih Kaki, 27 October 2013, Bradford -UK.

¹²⁸ Interview with Salih Kaki, 18 October, 2013, Bradford: United Kingdom.

¹²⁹ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

inadequate in as far as the issues of the two areas were concerned as it did not address any of the two areas' core concerns.¹³⁰

This implies that conflict in the areas could/cannot be ended. The views of most of the respondents however were that the two areas are very important specifically to Sudan in the context of its security and resources and as such were red lines in the negotiations.¹³¹ Likewise, the areas are important to South Sudan in terms of security as the fighters in the areas were/are part of them.¹³² This meant that they could not be allowed to go anywhere. It is then noted that the Southern Kordofan/Nuba Mountains and Blue Nile protocol was more of a work plan than a final settlement as it had failed to satisfy the aspirations of the people of the areas- most importantly, their long-standing demand for self-determination to protect their societies and their culture which could then have reversed decades of marginalization and discrimination.

Complete negative peace and positive peace were sacrificed as no solution was given to the concerns of the areas. Creative ambiguity was the term that the chief mediator referred to in the protocol of the two areas in this case.¹³³ In this case liberal peace as espoused in the Liberal peace theory could not take root as the conflict could not be transformed.

Thus, instead of giving out peace to the two areas, the protocol exacerbated conflict which certainly was very contradictory to the tenets of conflict resolution. This suggests that neither negative peace nor positive was and could be realised in the two areas. What is problematic is that since most of the concerns were never touched on, translates that there was/is no peace to be built to transform the conflict.

¹³⁰ Marginalisation and the threat to Arabization and Islamization featured highly on the list of the core concerns.

¹³¹ Interview with Idris Mohamed Aba Al Kadar, 10 October 2013, through a telephone conference, Bradford: United Kingdom.

¹³² The 9th SPLA division was based in the Nuba Mountains and was made up of Nuba soldiers. Similarly, the 10th SPLA division was based in the Blue Nile state and was made up of soldiers from the area. It is noted that SPLM/A-North created after South Sudan separated from the North is basically a blueprint of these Divisions but now in North Sudan.

¹³³ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi: Kenya.

4.4.7 Permanent ceasefire and security arrangement implementation modalities and appendices and Implementation modalities and global implementation Matrix and appendices (Annexures I &II)

The major concessions in the protocol of the permanent ceasefire and security implementation modalities were; setting up the implementation modalities for the permanent ceasefire and security arrangements in the pre-interim and the interim period **(CPA Annexure I and II)**.

Barltrop (2008:22) states that the protocol amplified the 2003 security arrangement protocol after a realisation that certain aspects like the principles of proportional downsizing of both forces and a pledge to institute Disarmament, Demobilisation and Re-integration (DDR) for all those who would be affected by force reduction and downsizing with the assistance from the international community were not included in the negotiations of the security arrangement. The permanent ceasefire arrangement was authored with a view to assist with conflict management in order to regulate/contain/deter the parties' conflict behaviour after the agreement.¹³⁴

In line with this protocol, the two parties (GOS and SPLM/A-M), during the period of the negotiations were seen to be maximizing the strategy of fight and talk as a tool of consolidating power.¹³⁵ Waihenya (2006:97) states that SPLM/A captured Torit soon after the signing of the Machakos protocol and similarly SAF as a way of revenge made sure recaptured Torit before returning to the table.

The security protocol and the CPA itself were not negotiated in good faith as the idea was to be seen to be talking peace at the table, while the real intention was war.¹³⁶ This status quo in essence meant that each party did not want the conflict to end and have peace among their midst and thus the exercise failed to contribute to negative peace which would have eventually contributed to positive peace. This explains the tensions and the threats to a return to war at the time and after the separation of southern Sudan.

Johnson (2011: 62) states that a ceasefire agreement normally includes permanent arrangements for monitoring performance and for integration and demobilisation of

¹³⁴ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

¹³⁵ Interview with Hilde Johnson, 18 August 2013, through a telephone conference, Malawi

¹³⁶ Interview with Adams Oloo, 12 September 2013, Nairobi- Kenya

forces while cessation of hostilities implies freezing in place interim arrangements that would depend on renewal if it is to last. The parties refused to have a ceasefire agreement and instead a cessation of hostilities was agreed upon as a temporary measure to enable the negotiations to proceed.¹³⁷ This scenario was a clear manifestation of lack of commitment by the parties to end the war and to resolve the conflict and as such complete negative peace could not be achieved.

The protocol expounded on the details of the DDR although the parties themselves were not going to embark on a substantial DDR as the targets for the exercise were members of the aligned armed groups only (Barltrop, 2008:23). The two armed groups (SAF and SPLA) were going to be intact and still poised to continue fighting if there was going to be any need.

This suggests that despite the protocol on the ceasefire and security being agreed on, necessarily fighting between the parties never stopped and would never stop. Thus, Complete negative peace was only given lip service at the table as in reality war was/is still on going on the ground.¹³⁸

Through the insistence of Garang, a clause was inserted in the protocol giving the SPLA the right to import military equipment and to receive financial support from outside the country subject only to notification and approval of the GOS.¹³⁹ This part of the protocol is viewed to have been problematic in the context of negative peace and the resolution of the conflict as the party would have a free hand in the importation of military equipment which was to be used to sustain the war. The parties did not trust each other and as such the conflict could not be resolved as complete negative peace could not be achieved.

Regarding the case of positive peace, the protocol at some point stipulated that the DDR should take place within a comprehensive process of national reconciliation and healing throughout the country (**CPA Annexure I, Article 27.5**). The two parties had rejected the reconciliation component into the CPA after the IGAD secretariat had proposed it at some point which was supposed to have been joined together

¹³⁷ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

¹³⁸ Interview with Susan Page, 4 October 2013, through a telephone conference, Bradford: United Kingdom.

¹³⁹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan..

with the aspect of justice.¹⁴⁰ Justice would have assisted to punish human rights violators and put back in place the moral order of the society while reconciliation would have assisted to build positive relationships and to develop a shared vision of the future.

The perception in regards to the inclusion of reconciliation as part of the DDR is that it was misplaced as it only focused on the armed groups and not the whole population. Factoring of the aspects of justice and reconciliation into the agreement could have helped to achieve positive peace and in that case liberal peace as is advanced in the Liberal peace theory could have partially taken root (**see figure 2.4**). The annexure and the CPA as a whole lacked focus in its articulation of elements which could have contributed to negative peace and eventually positive peace. The attitudes and the behaviour of the parties were/are still hostile and violent and that due to such a status quo the conflict structure could not be changed.

What is also seen to have been problematic with this protocol was its failure to address the question of disarming civilians most specifically in South Sudan who possess arms arguably for their self-defence.¹⁴¹ These arms even after the agreement are at times used to attack other ethnicities and for criminal activities which in turn destabilises the security environment. The annexure on this dimension failed to deal with the south-south conflict which was/is very acute and more deadly than the north-south conflict. This suggests that there are more inter-clan clashes and criminal activities in South Sudan as sources of insecurity. This explains the challenges the agreement encountered, dilemmas which were faced by the parties and the tensions and the threats to a return to a war then and after the separation of South Sudan.

The implementation modalities protocol in the form of tables generally outlined the schedules, the targets and the responsible parties for implementing all the protocols (**see CPA Annexure II**). The argument for its contribution to negative peace only comes in the context that it was to guide and police the implementation process of the CPA (Barltrop, 2008:24). The weakness of the annexure was that it did not have a specified agency which was to enforce and make follow ups on the progress of the

¹⁴⁰ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

¹⁴¹ Interview with Alan Goultry, 5 November 2013, through a telephone conference. Bradford: United Kingdom

implementation of the whole CPA.¹⁴² The job functions of the Assessment and Evaluation Commission (AEC) which was established for a related task did not really include this area.¹⁴³ This suggests that negative peace posed difficulties to monitor and as such positive peace could not be attained in an environment which was insecure.

4.5 Peacebuilding

The CPA was a political settlement which was intended to end the north-south Sudan conflict and achieve peace. The peace however required building. Boutros-Ghali, (1992:10) as in chapter 2 perceives peacebuilding as action to identify and support structures which tend to strengthen and solidify peace to avoid a relapse into conflict. This scenario implies that the CPA in itself was part of peacebuilding.

Peacebuilding is generally undertaken by the UN, the concerned nation on its own and the concerned nation supported by international Governmental Organisations (IGOs) and local NGOs (Bercovitch and Jackson, 2012:177). In the context of the UN the main forms include; fully formed comprehensive UN directed peacebuilding operations, peacekeeping operations with significant peacebuilding dimensions and post-conflict transitions and a plethora of peacebuilding policies, projects and programmes within the wider activities of a large number of international, national and non-governmental agencies. It is noted that peacebuilding in Sudan did not have a clear lead agent as it is viewed that many agents were active despite the presence of the UN¹⁴⁴. This implies that the attitudes and the behaviour of the parties were still violent and hostile and as such the conflict could not be transformed as is advanced in Galtung's ABC conflict triangle theory and likewise Liberal peace as advanced in the Liberal peace theory could not be easily be realised.

It is noted that rehabilitation, reconstruction and reconciliation of the societies that have suffered the ravages of an armed conflict; creation of security related, political and /or socio-economic mechanisms needed to build trust between the parties and to prevent the resumption of violence and an external foreign intervention to create conditions conducive to peace are the three elements that are central to

¹⁴² Interview with Douglas Johnson, 27 November 2013, Oxford-UK

¹⁴³ See CPA chapter 1, Article 2.4).

¹⁴⁴ Susan Page, 04 October 2013, South Sudan

peacebuilding (David, 1999:27). It is contended that the 2005 CPA included these elements in its protocols but were sketchy and their timing and sequencing were not very concise.¹⁴⁵ This implies that peacebuilding did not have a clear pattern to be followed.

Institutions play a big part in the context of achieving liberalisation. It is contended that Sudan at the time did not have the appropriate institutions which could have promoted political and economic competition as part of liberalisation despite their inclusion in the CPA. This implies that issues such as social justice, welfare provision, tradition, custom, culture, the grassroots inclusion, reconciliation, equity and humanistic agendas for peace which are the heart of peacebuilding could not effectively take place. A clear translation in this regard is that democratisation, a free market economy, individual rights and the rule of law which constitute Liberal peace could not take place. This begins to explain problems of implementation of the CPA and likewise the tensions and the threats to a return to war later in the process. Institutionalisation before liberalisation is important if peacebuilding is to be successful (Paris, 2004:187). The CPA may have overlooked this important area.

4.6 Conclusion

The 2005 Sudan CPA was a product of the IGAD member countries led initiative supported by the USA and its allies commonly referred to as the 'Troika' which had aimed at identifying the root causes of the harmful political conflict, eliminating historical injustices and avoiding the losses of wars and destruction specifically between north and south Sudan. The CPA was a conflict settlement which was arrived at in order to address the core concerns of the SPLM/A-M against the GOS as part of conflict resolution/transformation in order to achieve peace.

Generally, conflicts are resolved when a discernible outcome has been reached, conflict behaviour terminates and a satisfactory distribution of values and resources has been agreed upon (Anola, 2009:340). The north-south Sudan conflict required meeting these stated requirements in order for it to qualify as resolved and for the dilemmas that the parties were facing to be cleared.

¹⁴⁵ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

The first generation/traditional conflict resolution approach which is suitable for interstate conflicts was used by the IGAD to guide the resolution of the conflict. The traditional conflict resolution approach is a state-centric Westphalian system whose goal is to resolve conflict so as to protect order and security and by reinforcing the ability of states to pursue their own interests and is mostly the preserve of diplomats, soldiers and the political elite (Richmond, 2002:9).

The approach in the context of the Sudan conflict created problems in the resolution of the conflict as it could not accommodate some of the key actors who could have assisted to resolve/transform the conflict. Thus, the actors who could not be accommodated in the process became spoilers and as such complete negative peace could not be achieved as was desired. Other conflict resolution approaches like those categorised as 21st century approaches which allow wider participation could have done better in terms of participation and coverage of issues (Bercovitch and Jackson, 2012:186).

The involvement of IGAD to intervene in the conflict resolution of the conflict implied the use of a multi-government/institution or organisation model. Mitchel (2008:95-96) as in chapter 2 states that this model raises doubts especially when the conflict in question takes place within the formal boundaries of one of the members of the community of the organisation or formal government of a state as one of the parties to a conflict opposed by an ethnic or other types of insurgences and when the issues in the conflict revolve around the preservation of the unity of the state as opposed to its division or disintegration. The organisation found it difficult to act against a fellow member state in some issues due to the tendency of using the principles of territorial integrity and non-interference in the internal affairs of any country unless genocide clearly threatens.¹⁴⁶

Mediation, negotiation and peacebuilding were the dominant methods which were used in the conflict resolution approach. The mediation frameworks which were used (the DOPs and the Machakos framework) contradicted each other (Young, 2012:95-96). The DOPs were broad in their scope, that is were designed to deal with the conflict in the whole country while the Machakos framework only concentrated on the

¹⁴⁶ Interview with Susan Page, 4 September, 2013, through a telephone conference, Bradford, United Kingdom

north-south Sudan conflict. The issues concerning north and south Sudan were included whilst those concerning other areas were left out.

This status quo translates that the scope of the mediation was narrow in terms of the participation of the actors and the issues which could have assisted to achieve complete negative peace. This explains the tensions and the threats to a return to war at the time and later in the process by the two parties through their proxies in the other areas.

Negotiation as a method of the conflict resolution approaches forms an important part of conflict resolution. The parties, issues and the context are the important elements of negotiations (Bercovitch and Jackson, 2012:22). The parties in the conflict included political parties, armed groups and the civil society in the Sudan conflict but only the NCP representing the GOS and the SPLM/A-M representing southern Sudan were included while all others were not included. The solutions required to be sold to the constituents but in the case of the parties which were locked out this could not take place. This was one of the dilemmas which were faced by the parties during the period and a factor that led to some of the tensions then and after the separation of South Sudan.

The conduct of the negotiations at Naivasha were problematic as only Osman Taha as the Vice President of Sudan and Garang representing the SPLM/A sat alone to negotiate and resolve the issues which were at stake.¹⁴⁷ The arrangement deprived the process expertise and contributions from others and thus affected the content of the settlement as it was based only on the discussions of the two leaders.

Some of the core concerns as the issues at the heart of the conflict were either unresolved or left untouched. This suggests that the conflict structure could not be transformed as is advanced in the Galtung's ABC theory. The attitudes and the behaviour of the other members of the delegations still remained hostile and violent due lack of knowledge of the developments and similarly peacebuilding activities which contribute to achieving liberal peace as advanced in the Liberal peace theory could not effectively be implemented.

¹⁴⁷ Interview with Bona Malwal, 22 October 2013, Oxford-UK

The articulated background indicates that the CPA resulted from a bilateral process which was restricted to the two main warring parties and by implication too narrowly focused on the north-south dimension of the conflict. The conflict resolution process is based on the settlement of the substantive issues which are referred to as the core concerns of the parties. Peace agreements/settlements are meant to address political, territorial, and socio-economic and security issues (Darby and MacGinty, 2008:195). The extent of any agreement is important particularly in terms of the degree to which it deals with constitutional, territorial and security aspects (Bischoff, 2007:3). The outcome of the mediation/negotiation process was six agreements and two annexures which together are called the 2005 Sudan CPA which were supposed to address the substantive issues as had been advanced by the SPLM/A articulated earlier. The content of some of the protocols and their provisions did not reflect these aspects. This explains the challenge the agreement encountered, dilemmas the parties faced and the tensions and the threats to a return to war at the time after the separation of South Sudan.

The CPA's Machakos protocol was important in that it gave the south the right to self-determination with its options of unity or separation through a referendum after a six and half year period. The right to self-determination is a contested concept internationally and its' use in other African intrastate conflicts has been problematic (Bamfo, 2012:38). Katanga in DRC, Biafra in Nigeria and Eritrea are cases in point in the context of the suitability of the concept. The referendum in regards to its attachment to the right to self-determination with its options was a hallmark of the CPA as it provided an opportunity for the conflicting parties to completely resolve the conflict.

The other protocols had good intentions but inadequacy in their content pushed the south to consider separation other than the desired unity which was aspired for in the Machakos protocol. The established view from this status quo is that through the problems of the conflict resolution approach, flaws in the frameworks of mediation and the mediation itself, a flawed negotiation process and a poorly coordinated peacebuilding process resulted in the lack of inclusiveness, narrow focus on the conflict issues, failure to resolve some of the substantive issues and the inadequacy in the content of some of the protocols or complete absence of some provisions of

the 2005 Sudan CPA. The resulting CPA in this regard was challenged in these areas.

The peacebuilding bit in the CPA was problematic in the sense that it was sketchy and was not properly timed and sequenced. This implies that it could not assist to achieve Liberal peace as is advanced in the Liberal peace theory grounded in the liberal peace thesis. This may explain part of the tensions and the threats to a return to war at the time and later after the separation of South Sudan.

The CPA can be contended to have failed to be comprehensive in its representation since it was restricted to two parties that granted themselves the lion's share of power until when the referendum was held and only covered issues involving north and south Sudan as opposed to the whole country.¹⁴⁸

Thus, the agreement leaned towards the usual but inaccurate approach of looking at the Sudan problem in a fragmented way which kept ignoring the broad issues. The position of the CPA begins to explain the challenges the agreement encountered, the dilemmas the parties faced or are facing and the tensions and the threats to a return to war at the time and after the separation of South Sudan. The chapter it is believed provides a broad overview of the CPA which manifests how it was arrived at and the problems thereafter. The next chapter discusses the implications of the mediation, the negotiation and the implementation process of the CPA.

¹⁴⁸ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom.

Chapter 5

5.0 The implications of the mediation, the negotiation and the implementation processes of the CPA

5.1. Introduction

The desired end-state of any mediation /negotiation as part of conflict resolution is the signing of a peace agreement. The most important point about peace agreements in this context is that they are a necessary step to any lasting peaceful arrangement and durable order. This translates that they constitute an integral part of conflict resolution/transformation. Conflict resolution according to Bercovitch and Jackson (2012:1) as articulated in chapter 2 is a range of formal or informal activities undertaken by parties to a conflict, or outsiders, designed to limit and reduce the level of conflict and to achieve some understanding on future interactions and distribution of resources.

The 2005 Sudan CPA was a very long and rigorous process of mediation/negotiation which aimed at resolving the conflict which had bedevilled north and south Sudan for nearly half a century. It was meant to address the in-group and out-group struggles, religious domination, ethnicity, victimisation and marginalisation as the core areas of concern of the second civil war which was championed by the SPLM/A of south Sudan (Raftopoulos and Alexander, 2006:25). These were the problems which the CPA tried to resolve through its protocols which were categorised to address issues at the national level, institutions in southern Sudan and the transitional areas (Abyei, Southern Kordofan and Southern Blue Nile states).

Despite reaching the agreement/s, there were other areas which remained untouched, unresolved and also at the end selectively implemented due to the mediation, negotiation and the implementation processes. If some issues were left untouched, some unresolved and that once the agreement was reached others remained unimplemented, then how did the actors of the peace process expect the conflict to be resolved and for the country to achieve the sought for peace. Conflict resolution does not completely remove all the problems of a conflict but the correct position would not be to deliberately make omissions and expect all to be well.

This chapter examines issues in the CPA which were untouched and unresolved during the CPA mediation/negotiation and those that were either partially or not implemented with a view to establish how they finally affected conflict resolution/transformation of the Sudan conflict and the implications thereafter.

5.2 The untouched issues of the CPA

The 2005 Sudan CPA was a result of the mediation and negotiation processes which were carried out by the IGAD as a mediator supported by members of the Troika. The exercise was essentially meant to resolve the issues as were advanced by the SPLM/A representing Southern Sudan and to an extent all in the periphery of the central government of Sudan.

As stated by Rogier (2005:17-18) in chapter 3, the CPA was meant to address the core concerns which had triggered both the first and second civil wars. This required that an agreement be designed to engage Sudan as a multi-racial, multi-ethnic, multi-religious and a multi-cultural society if at all the conflict had to be ended and resolved. These core concerns were translated in the DOPs and the Machakos protocol. These came to be viewed as the frameworks of the IGAD mediation/negotiation from which the right to self-determination for the South, separation of state and religion, system of government during the interim period, sharing of resources and the security arrangements originated.¹⁴⁹

Hampson (1996:217), as in chapter 2 refers to dealing with the core issues in conflict as an exercise which involves bringing about real transformation of conflict which incorporates norms and principles to which parties subscribe, such as equity in democracy and being consistent with standards of human rights, justice and respect for individuals and groups as one of the pre-conditions to achieve a successful peace settlement.

While it is generally agreed that the 2005 CPA achieved partial negative peace, it is argued that it left out other areas untouched which could have assisted to bring about positive peace to the country. Bischoff (2005:7) states that sustainable peace agreements should be able to reach into the post-conflict peacebuilding phase and be able to begin to address the in-depth causes of conflict as part of the

¹⁴⁹ Interview with General Sumbeiywo, 12 September, 2013, Nairobi-Kenya

opportunities to encourage the transformation of political relations. The case of the Sudan CPA does not seem to have situated itself in this way since some of the important aspects which were part of the core concerns were left untouched.

The core concerns which had to be addressed like the national identity question and marginalisation of the periphery by the centre which could have gone hand in hand with the aspect of justice and reconciliation, separation as the antithesis of power sharing that is in the case of the South opting for it during the proposed referendum, sharing of resources and civilian disarmament specifically in the border areas and South Sudan were left untouched for reasons which were not clear.¹⁵⁰

5.2.1 Reconciliation and justice

The civil war/s in Sudan involved the use of force by the conflicting parties and similarly it is a known fact that their encounters occurred on a space which was occupied by civilians as a battlefield. In the course of the conflict in this regard both the GOS and the SPLM/A were involved in the perpetration of human rights violations and as such required that the society in Sudan be reconciled.¹⁵¹

Bercovitch and Jackson (2012:151) state that justice and reconciliation aims at dealing decisively with the past, particularly the legacy of massive human rights abuses and lay the foundation for a peaceful and democratic future. Justice in this case is necessary for putting back in place the moral order of society while reconciliation attempts to transform hostilities among parties previously engaged in a conflict/dispute into feelings of acceptance and even forgiveness of past animosities or harmful acts.

Barash and Webel (2009:446) argue that there is a legitimate worry that once a people in a community have experienced lacerating violence, it is not only difficult but also perhaps impossible for the victims to return to a pattern of peaceful coexistence. Thus, without the aspect of justice and reconciliation, the desired peace between north and south Sudan and even within South Sudan could not be realised.

¹⁵⁰ Interview with Susan Page, 04 October, 2013, South Sudan

¹⁵¹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

The GOS through its Sudan Armed Forces (SAF), the People's Defence Force (PDF) and the Murahilin in south Sudan attacked and burnt peoples' villages, killed civilians who included the old, women and children. Additionally in the case of women and children, they took them to the north where they were traded or kept in slavery. Similarly, the SPLM/A raided areas which they felt were supporting the government's side.¹⁵²

Collins (2008:219-220) on the same state that the GOS was also involved in summary executions, killings, enforced or involuntary disappearances, arbitrary arrests, torture and detention, torture and displacement of large civilian populations in the Nuba Mountains and South Sudan through their fighters or security agents.

Inside the combat zones, unarmed civilians had been targeted by both the government troops and the SPLM/A-M and similarly outside the combat zones agents of the same parties were involved in a variety of human rights violations. This situation reflected the core concern of marginalisation. These activities created deep rooted hatred between the north and the south, within the south and within the north.¹⁵³ This suggests that the parties faced a dilemma on this aspect which involved both of them. This situation required to be addressed through the administration of justice (transitional justice) and reconciliation as part of the peacebuilding activities to transform the conflict **(see figure 2.3)**.

It is contended against this background that if the commitment to a united Sudan was to be achieved, then there was a need for a north-south and also at some point a south-south justice and reconciliation process as a way of achieving complete negative and positive peace. The view in this case is that it was/is quite evident that there was/is intense hatred between the people of the north and the south and among southerners due to what happened during the course of the conflict.¹⁵⁴

This implies that the attitudes and the behaviour of the parties in north and south Sudan and within south Sudan were/are still hostile and violent and that the conflict structure had not changed. Complete negative peace could not be achieved in this case and likewise positive peace as are advanced in the Galtung's ABC theory and

¹⁵² Interview with Douglas Johnson, 27 November 2013, Oxford-UK

¹⁵³ Interview with Anna Ito, 8 July 2013, Juba- South Sudan

¹⁵⁴ Interview with Nhial Deng Nhial, 5 July, 2013, South Sudan

the Liberal peace theory. Reconciliation and justice should have been a must include issue in the mediation/negotiation process of the agreement to facilitate conflict resolution/transformation to end the conflict.

Young (2012:13) argues that although the IGAD secretariat had proposed a reconciliation component in the CPA, it was opposed by the NCP representing the GOS and the SPLM/A representing the south.¹⁵⁵ The reason behind such a position was that both parties knew that they had committed major crimes during the civil war which would have put them in bad light in the eyes of their people.¹⁵⁶

Reconciliation and justice through its components of truth, mercy, healing and peace assists alienated societies to forge a spirit of coexistence (Lederarch, 1997:30). The aspect may have been omitted to prevent the locals to know the truth about the perpetrators of the criminal activities in both the northern and southern camps which would have further complicated the spirit of resolving the conflict. Sumbeiywo, the chief negotiator had this to say on reconciliation and justice:

“It is a well-known fact that in any war situation truth is the first casualty, if the attainment of peace through a negotiated agreement or by whatever means is to mean anything to the people and to last, then it must be based on justice and reconciliation. No justice and reconciliation between any groups even between two members of the same family can take place without the truth first being uncovered and accepted”.¹⁵⁷

This quote summarises the importance of reconciliation and justice for a society coming out of a conflict. This was how somebody who took an active part in the negotiations of the agreement felt about justice and reconciliation yet the aspect was not given due attention in the agreement apart from vague mention about it in a few areas in some of the protocols of the agreement.¹⁵⁸

¹⁵⁵ According to Young (2012:107), Garang and Taha opposed the proposal for the formation of a truth and reconciliation commission as one way of completely doing away with the aspect of reconciliation.

¹⁵⁶ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom.

¹⁵⁷ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

¹⁵⁸ CPA chapter II, Article 1.7.1 in the power sharing protocol, Section 14.6.5.15 in the security arrangements' permanent ceasefire and security arrangements implementation modalities protocol and Article 9 in the resolution of Abyei protocol as examples.

5.2.2 Human security

The 2005 Sudan CPA had covered the aspects of politics, the economy, security and the territory in the six protocols that constituted it. However, considering the elements of security represented by the security arrangements protocol, only a state centric face was given attention while the human security aspect was omitted¹⁵⁹. Kaldor (1987:18) perceives human security as a paradigm for understanding global vulnerabilities whose proponents challenge the traditional notion of national security by arguing that the proper referent for security should be the individual rather than the state.

In the context of the security protocol, there were details of two separate armies, formation of the JIUs and a Joint Defence Board and similarly in the security arrangement protocol annex, only the SAF and the SPLA were targeted in the DDR programme while civilians who equally had weapons which could be used to perpetuate criminal activities were not included.¹⁶⁰

The civilians who had weapons were a problem as they could easily engage in criminal activities and similarly even with the agreement in place, continue the war on their own. The concentration of focus on the state security aspects translated that there was a disregard of the human security of the people which was equally important in order to resolve the conflict.¹⁶¹

The Nuer communities were displaced from their homelands due to the oil extraction ventures and that the Christian churches were being persecuted in addition to their property being confiscated and some of their ministers being killed.¹⁶² The persecutions of the Christians was an attempt by the government to suppress Christianity as part of the Islamic agenda and as punishment due to a belief that they gave support to the SPLM/A (Malwal, 2005:53-57). This evidence implies that the GOS continued with the marginalisation of its subjects but as time went by the SPLM/A-M also joined the band wagon.

¹⁵⁹ Professor Adams Oloo, 12 September 2013, Nairobi- Kenya

¹⁶⁰ Interview with Alan Goultry, 05 October, 2013, United Kingdom.

¹⁶¹ Interview with Susan Page, 4 October 2013, Bradford-UK

¹⁶² Interview with Bona Malwal, 22 October 2013, Oxford-UK

These positions suggest that complete negative peace could not be achieved as the aggrieved people wanted to retaliate as revenge. Likewise positive peace could not be achieved as many injustices were being perpetrated by the conflict parties. The omission of human security in the resolution of the Sudan conflict can then be viewed to have been problematic in the field of conflict resolution/transformation. This meant that the Galtung's ABC conflict triangle theory and the Liberal peace theory which focus on conflict resolution/transformation could not take root in Sudan. This begins to explain the tensions and the threats to a return to war at the time and after the separation of South Sudan.

5.2.3 Separation

The CPA had addressed the political questions between the GOS and the SPLM/A-M through the Machakos and the power sharing protocols (Rogier, 2005:9). The Machakos protocol provided the general framework for the political settlement in that it allowed the north to retain Sharia as a source of its legislation and self-determination for the south which would allow it either to remain as part of Sudan or separate from it and a secular legislation. It also provided for a largely autonomous government for southern Sudan and the establishment of a Government of National Unity (GONU) in which southern Sudan was to be a participant (Waihenya, 2006:88).

Power sharing gave out a picture of a united Sudan which could have been changed with ease that is if the south opted to remain in a united Sudan. There was, however, no details provided if south Sudan opted to separate from north Sudan. The chief mediator noted that "[n]obody envisioned beyond the referendum, certainly the issue of separation was not in Garang's plan as he believed that he was going to rule Sudan and quoting him stated that – There were going to be elections, he was going to win and govern Sudan".¹⁶³ Similarly in another interview, on the same, the respondent said "there was nothing which was discussed and written beyond the referendum".¹⁶⁴ This evidence suggests that the mediation/negotiation of the CPA did not touch on the aspect of separation as there was a belief that Sudan was going to remain a united country. By not touching on separation in detail, the mediation and negotiation processes of CPA watered down an effective conflict resolution process

¹⁶³ Interview with General Sumbeiywo, 12 September, 2013, Nairobi-Kenya

¹⁶⁴ Interview with a senior NCP/North Sudan negotiator, 2 December, 2013, United Kingdom

in the sense that no plans were put in place to deal with a situation whereby the south would vote for separation.

Even if south Sudan was claiming for self-determination, some of its people wanted it to be exercised within Sudan while others wanted it to be exercised outside. The problem anticipated in this regard was that those supporting the unity case would likely undermine the choice and create chaos. Similarly in the case of the north, the option of separation by the south would be undermined and the north would be forced to continue the conflict with the south.¹⁶⁵ This challenged the CPA and presents some of the dilemmas which were faced by the parties.

An anticipation of the scenario playing out in this direction implied that complete negative peace could not be achieved and likewise positive peace as there would be no basis in which the conflict would have been transformed. The omission of the details on separation while those of power sharing were provided was problematic in the context of conflict resolution. By south Sudan opting for separation, that action would have translated the attitudes and the behaviour of those supporting unity being hostile and violent and the conflict structure not being transformed. In this case, the Galtung's ABC conflict triangle theory and likewise the Liberal peace theory would not have taken root or be applicable.

5.2.4 Sharing of resources

Resources are one of the root causes or exacerbating factor of many conflicts particularly in Africa. In the case of Sudan, De kock (2011:7) notes that the struggle for resources by people living in the periphery and the high politics of oil featured highly during the mediation/negotiation of the CPA. As a response to the query on the socio-economic gap between the centre and the periphery, the mediation/negotiations arrived at the wealth sharing protocol which basically provided a framework for the allocation and sustainable decentralisation of resources.

The intention of sharing the wealth was good but in the context of conflict resolution it should have focused on the sharing of resources.¹⁶⁶ This is because the protocol

¹⁶⁵ Interview with Salih Kaki, 27 October 2013, Bradford -UK.

¹⁶⁶ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

only focused on the revenues which were being generated from south Sudan in the form of oil and taxes and overlooked the fact that the country had a number of resources which if the south was going to opt for separation during the proposed referendum, problems would arise between the two parties on how their resources were to be shared. Cases in point include issues of the oilfields and the oil industry infrastructure (pipeline, refineries and the sea port) which all belonged to the state but were found either in the north or the south or were/are used jointly by the north and the south.

The sharing of resources would have been more practical than wealth sharing which was based on the flow of revenues in consideration to a fact that the south during the referendum could opt to separate. Considering that oil is an economic lifeline of Sudan, an option by southern Sudan to separate would create a problem and conflict would not end.

This was one of the dilemmas that were faced by the parties and begins to explain the tensions and the threats to a return to war at the time and after the separation of the south. In this case, complete negative peace could not be achieved and eventually even positive as the attitudes and the behaviour of the parties could still be hostile and violent and the conflict structure not being changed as advanced in the Galtung's ABC conflict triangle theory and the Liberal peace theory.

Williams (2011:74) states that struggles to control resources contribute to outbreaks of conflict when there is competition for scarce resources. The case of Sudan shows that negotiating an agreement on revenue sharing and not resource sharing may have been a deliberate act by the parties in anticipation of the problem of the Abyei area and the demarcation of the Sudan-South Sudan border.¹⁶⁷

In a similar regard, given the controversy surrounding the water resources and in this case particularly the Jonglei canal on the White Nile river in the south, reference was not made about it, yet it was a very important issue to both the north and the south in

¹⁶⁷ Interview with Susan Page, 04 October, 2013, South Sudan. (The resources in Abyei provide huge economic advantages to Sudan and as such were not an issue which could have easily been resolved. The problem at the time was that the area was under the control of the SPLM/A but according to the January 1, 1956 boundary which had been the agreed border between the two parties during the CPA was in the North. Fear of losing out the advantages that the area offered to both the parties created problems in the negotiations of the wealth sharing protocol. This factor may have played out a lot in the calculations of the two parties).

addition to the fact that it also involves a dimension of international treaties with other countries in the region. The aspect may have been left untouched in order to avoid complicating the already difficult issue of revenue sharing.

The failure in this case to address the sharing of resources in the CPA was problematic in the context of conflict resolution. The omission meant that the conflict could not be completely resolved as some of the issues remained unresolved.¹⁶⁸ Since the south had most of the oil while the north had the infrastructure for transporting the oil to the markets (pipe lines, refineries and a seaport), revenue sharing instead of resource sharing was a let-down to an agreement which was meant to end and resolve a conflict. This position suggests that the CPA was challenged.

5.2.5 Darfur

Darfur is a region which is located in Western Sudan. The major armed conflict in the Darfur region of Sudan began in February 2003 when the Sudan Liberation Movement (SLM) and Justice and Equality Movement (JEM) rebel groups began fighting the government of Sudan, which they accused of oppressing Darfur's non-Arab population (Collins, 2008:287). The reasons for the conflict in Darfur were related to those of the north-south conflict, the Beja in the East, in the Nuba Mountains and in the Blue Nile state.¹⁶⁹ The Darfur conflict which had become a flash point in Sudan at the time despite having related objectives with the north-south conflict was left untouched during the mediation/negotiations of the CPA.¹⁷⁰

Darfur was treated as a separate and an unrelated conflict by the internal actors (GOS and the SPLM/A) and the international community. However, once the CPA was signed, all the international diplomatic attention switched to it due to claims of genocide (Johnson, 2011:154-156). President Bashir later in the process was indicted for crimes against humanity and genocide in 2008 by the International Criminal Court (ICC) just to show the gravity of the atrocities in Darfur.

¹⁶⁸ Interview with Muriuki, 13 September 2013, Nairobi – Kenya.

¹⁶⁹ Interview with Dr Khalid, 2 December 2013, Sudan Embassy, London-UK

¹⁷⁰ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

The switching of the attention from the CPA to Darfur orphaned certain critical aspects of the CPA's effective implementation¹⁷¹. Lack of implementation of certain aspects of the agreement meant that the conflict could then not be fully resolved or transformed and as such negative peace became shaky while positive peace could not be attained.

The omission of the Darfur issue brings on board the implications of the narrow focus of the CPA which if it had been broadened could have prevented the shift of attention of the international community as the issue could have been part of the same process.¹⁷² By leaving the Darfur issue untouched, the CPA lost out on what it could have achieved in the context of conflict resolution. In this case positive peace could not be attained as the post conflict-peacebuilding activities were not carried out as was planned. This implied liberal peace as advanced in the Liberal peace theory not being attained.

5.2.6 Civilian disarmament and arms control

In a bid to achieve security, the mediation/negotiation of the CPA devised the security arrangements protocol and an addition to it in a form of an annexure, called the agreement on the permanent ceasefire (Barltrop, 2008:14). The reality at the time in Sudan and now in the two Sudans is that civilians had and have arms even after the signing of the CPA which were given to them either by the GOS or the SPLM/A especially in South Sudan and the border areas between north and south Sudan for purposes of community security or assisting the two actors in their war effort.

The presence of arms in the hands of civilians and without mechanisms to recover them had been and is a source of violent conflicts between communities in both Sudan and South Sudan which manifest in the form of cattle raiding, revenge attacks and armed robberies.¹⁷³

The protocol and its amplification despite including the DDR for the two separate Armies (SAF and SPLA) and the OAGs, was silent on the disarmament of civilians

¹⁷¹ Dr Khalid, 2 December 2013, London-UK

¹⁷² Interview with Susan Page, 04 October, 2013, South Sudan

¹⁷³ Interview with Hilde Johnson, 05 November, 2013, South Sudan

and arms control (**CPA chapter VI**). The one reference in the CPA that appears to refer to civilian rather than OAG arms control and disarmament is the statement that empowers the Ceasefire Joint Military Committee (CJMT) to monitor and verify the disarmament of all Sudanese civilians who are illegally armed.¹⁷⁴

Possession of arms and an absence of a mechanism to control them raised the levels of insecurity at the time and even after the separation of the south from the Sudan.¹⁷⁵ The arms were at times used to support the conflicting parties in their encounters with each other and for criminal activities sanctioned by the leadership of the parties especially in the border areas and South Sudan. This situation posed a dilemma to them on how they could manage the situation. This implies that there was insecurity due to the arms possessed by the civilians at the time even after the separation of the south and as such complete negative peace could not be attained and likewise later positive peace.

This suggests that the attitudes and the behaviour of the parties were still hostile and violent and the conflict in that state could not be transformed and thus the Galtung's ABC conflict theory could not work. Similarly liberal peace as advanced in the Liberal peace theory could not be attained.

5.3 The unresolved issues

The 2005 Sudan CPA was a serious attempt to address the problems of unequal development and mismanaged diversity that caused a lot of violence and suffering in Sudan especially in southern Sudan. Many scholars and commentators of peace studies focusing on conflict resolution perceive the agreement to have been intended to make the unity of Sudan attractive and that if it failed, existing trends at the time towards fragmentation would accelerate and become more violent. Darby and MacGinty (2008:4) as in chapter 2 state that peace agreements are settlements and within them the negotiated solutions of the substantive issues form their basis for achieving negative peace and eventually positive peace. A peace agreement constitutes an integral part of conflict resolution.

¹⁷⁴ CPA, Annexure I, Section 14.6.5.15. -Agreement on Permanent Ceasefire and Security Arrangements Implementation.

¹⁷⁵ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

The 2005 CPA was supposed to deal with all the substantive issues that had been of concern to the parties. It is, however, noted that some of the core concerns which had triggered the conflict went unresolved as the CPA was signed.¹⁷⁶ The agreement during the implementation phase encountered problems due to this scenario and as such complete negative peace and eventually positive peace could not be completely achieved.

5.3.1 Definition of Northern and Southern Sudan

The IGAD peace initiative through the Machakos and the power sharing protocols used the 1 January, 1956 Independence boundary to define the areas which were being defined as north and south Sudan **(See figure 3.1)**. The parties during the mediation/negotiation processes settled for the 1 January, 1956 Independence Day boundary to define the territories of north and south Sudan in order to have a picture of the area which was being discussed (Johnson, 2011:44). However, the parties did not define the areas that constituted the territories of north and south Sudan.¹⁷⁷

The parties despite settling for the 1 January, 1956 border called for the border to be demarcated within six months.¹⁷⁸ From this position, it is clear then that the border that was agreed on was not clear but may simply have been a visualisation. Johnson (2010:15) states that much of the boundary area was not surveyed and that even the most detailed contemporary maps do not have records of significant topographical features along the said boundary line. **(See figure 5.1)**.

¹⁷⁶ Interview with General Sumbeiywo, 12 September, 2013, Nairobi- Kenya

¹⁷⁷ Leben Moro, South Sudan, 5 July 2013, Juba –South Sudan

¹⁷⁸ Interview with Muriuki, 13 September, 2013, Nairobi-Kenya

Figure 5.1: The 1952 topographical map of the northern and southern Sudan boundary



Source: Durham University Archive

Although this was a compromise position of the two parties, the position might have been arrived at without due consideration of other factors which were very important if tensions between northern and southern Sudan were to be dealt with completely.¹⁷⁹

Brosché (2007:8-9) argues that the definition of the northern-southern border in Sudan was important as it had a great bearing on the implementation of the other CPA protocols and provisions like the re-deployment of the armed forces, sharing of revenues, implementation of the Abyei protocol and the establishment of the political constituencies in preparation for the elections and developmental purposes. Similarly, self-determination as defined in chapters 2 and 4 could not be talked about for a people who did not have a defined territorial space. These scenarios suggest that the issue of the border between the two areas required resolving through the definition of the territories of the two areas.

Collins (2008:35-36), states that through a Closed Districts Ordinance and later a Southern policy, north and south Sudan were administered as separate entities although there had been no clear boundary between them. There was no territorial definition of northern or southern Sudan until very late in the Condominium era and

¹⁷⁹ Interview with General Sumbeiywo, 12 September, 2013, Nairobi- Kenya

that during both the Turkiyya and the Condominium eras there were various alterations and definitions of provinces that eventually became the provinces now included in northern and southern Sudan.¹⁸⁰ The available historical factors indicate that the 1956 boundary was generally based on the provincial boundaries of the provinces during the Condominium era but which with time kept changing in addition to the fact that there is no single authoritative source stating precisely what those boundaries looked like on that date.¹⁸¹ **(See table 5.1).**

¹⁸⁰ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

¹⁸¹ Interview with Muriuki, 13 September 2013, Nairobi – Kenya

Table 5.1- Sudan boundary changes 1905-1960

Date	Change	Other
1905	Transfer of Ngok & Twic Dinka from BGP to KP	SIR 128, p.3 AR 1905, pp.3, 111
19??	Transfer of Twic Dinka from KP to BGP	ID 1912, p.7
1912	Adjustment between UNP & KP around Kaka	AR 1912, v.I, p.261
1913	Separation of NMP from KP	SGG 227, p.734 AR 1913, v.II, p.75
1917	Adjustment of UNP–WNP boundary	SGG 337, p.937
1918	Adjustment of UNP–WNP boundary	SGG 337, p.937
1920	Adjustment of UNP–WNP boundary	SGG 363, p.1313
1921	Adjustment between UNP & Nuba Mts	SGG 386, p.1512
1923	Transfer of Kaka from UNP & Nuba Mts	SGG 414, p.1808
1925	Transfer of Daga from Fung (BNP) to UNP	AR 1925, p.13
1926	Transfer of Tonga & Morada from UNP to NMP	SGG 480, p.253
1927	Transfer of Nuer & Dinka from NMP to BGP	SGG 489, pp.59-60 SMIR 399, p.4
c.1927	Transfer of Kaka from NMP to UNP	MRS 1927
1928	Transfer of Tonga & Morada from NMP to UNP	SGG 511, p.378
1928	Amalgamation of NMP and KP	SGG 511, p.378 AR 1928, p.125
1931	Transfer of Rueng Dinka from KP to UNP	SGG 546, p.115
1938	Transfer of Koma, Meban & Uduk from BNP to UNP	SGG 660, p.15
1953	Transfer of Koma & Uduk from UNP to BNP	SGG 858, p.412
1956	Adjustment between UNP & BNP boundary	SGG 896, pp.319-20
1960	Transfer of Hofrat en-Nahas from BGP to DP	SGG 947, p.473

ABBREVIATIONS

Geographical Terms

BGP	Bahr al-Ghazal province
BNP	Blue Nile province
DP	Darfur province
KP	Kordofan province
NMP	Nuba Mountains province
UNP	Upper Nile province
WNP	White Nile province

Source: Durham University archive

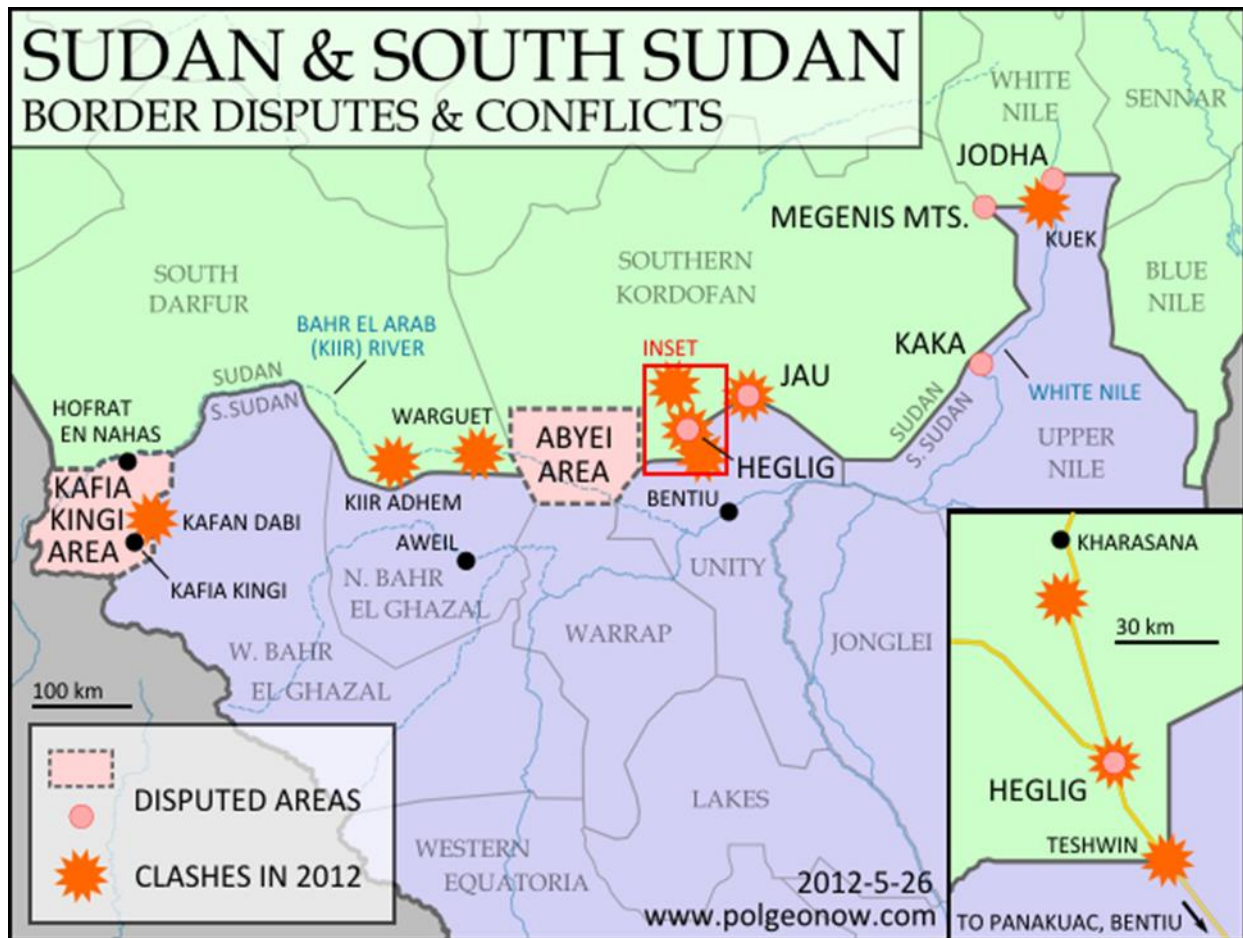
The northern-southern Sudan border is historically a series of provincial boundary changes that the 1972 Addis-Ababa agreement retroactively defined as the north-south boundary using the borders of the provinces as they had existed on 1 January, 1956 (Articles 3&4, Addis Ababa Agreement, 1972, GDRS and SSLM). The border of northern and southern Sudan was only created in 1972 and the 1956 January border was basically a depiction of the boundaries of the provinces that were in a country called Sudan. Johnson had this to say on the boundary of northern and southern Sudan:

“There are no maps of the 1956 border from 1956. The administrative borders were laid out on maps by the survey department from the 1930s through to the early 1950s; there’s no one map that shows, in sufficient detail, where the border exactly is in 1956. A full collection of maps – I’m pretty certain there aren’t any missing ones?”¹⁸²

This position implies that there was no clear boundary between northern and southern Sudan which means that the agreed designation during the CPA negotiation process was not correct. It should however be noted that the last part of the quote above implies that all maps for Sudan at the time were there but none indicates the border line between northern and southern Sudan. Likewise in regards to the absence of an undisputed map of the 1956 border between north and south Sudan, it should be noted that although there are possible sources available from local maps at the Durham Archive, these have not been agreed by the GOS. This was a dilemma that the parties faced and begins to explain the tensions and threats to a return to war at the time and even now after the separation of South Sudan.

¹⁸² Interview with Douglas Johnson, 27 November, 2013, Oxford-United Kingdom

Figure 5.2: Map of Sudan and South Sudan contested areas and fighting since the beginning of 2012.



Source: NordNordWest / Wikipedia, License: CC BY-SA

The issue of the border as agreed in the CPA was not resolved but simply a compromise position between the two parties and the mediators. More problems arose later in the process due failure to resolve the border issue (**See figure 5.2**). This translated that complete negative peace could not be achieved and likewise later positive peace due to the fact that a lot of activities which were to take place to achieve peace were based on the border designation which in this case was problematic.

This scenario begins to explain reasons as to why issues of citizenship, natural resources, economic cooperation, grazing rights of the cross border populations and security between the two states are problematic after the separation of South Sudan.

Liberal peace as advanced in the Liberal peace theory could not be achieved as the conflict could not be transformed which could have allowed peacebuilding activities to take place in the areas.

5.3.2 Religion and the question of national identity

The core concerns which turned out to be the substantive issues in the mediation/negotiation of the CPA as articulated in chapter 3 included the question of national identity; the socio-economic and political gap between the centre and periphery; and the constant threat of 'Arabisation and Islamisation' by the northern elite (Raftopoulos and Alexander, 2006:25).

An Arab-Islamic identity had been widely adopted by the inhabitants of northern Sudan whose ingredients were the Arabic language, claims to Arabic ancestry and Islam (Collins, 2008:8). Sharkey (2008:22) alleges that there occurred over the centuries a process of Arabisation which entailed the gradual spread of the Arab identity and the Arabic language and along with it the Islamic religion in northern Sudan.

Wai (1981:97) states that Sudan on its independence day on January 1, 1956, declared Arabic as its sole official language and Islam as the religion of the state with a view to assimilate all who were non-Arabs and non-Muslims to embrace the Arab Islam identity as a national identity for the country. The fears of the southerners on the question of the national identity and the threat of Arabisation and Islamisation by the northern elite were well founded and that the northerners were prepared to do all they could to achieve their aspirations.

In order to advance the Arab- Islamic agenda, successive post-independence regimes (civilian and military) forced non-Arabs and non-Moslems to convert to Islam and in turn become Arab by speaking the Arabic language as a way of unifying the state.¹⁸³ The GOS adopted an assimilationist approach on the southerners whereby they were being forced and tortured to convert to Arabism and Islam against their choice of either to be Christians or to remain as adherents of their traditional beliefs.

¹⁸³ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

This status quo raised questions as to whether the country was Arab or African, Afro-Arab or Arab-African and in the case of religion as to whether the country was to be considered Islamic and governed by Islamic law since there had never been any plebiscite in the country to determine the issue in regards to the Independence day proclamations.¹⁸⁴

The Machakos protocol allowed the north to retain Sharia and the south to adopt western customary international law as the bases of their sources of legislations **(CPA chapter 1, Article 3.2)**. The protocol by allowing Sharia application in the northern Sudan and its non-application in southern Sudan sanctioned two different bases of legislation in one country and thus indicated complete failure to resolve the issues of religion and national identity.¹⁸⁵ More so, the issues apart from being mentioned in the Machakos protocol, they are not mentioned again anywhere else in the whole CPA. Failure to come up with solutions on the two issues meant that the parties faced a dilemma.

The solution encouraged the two camps to view each other as different entities that could not tolerate living together. Commenting on these aspects two respondents had this to say; “Those Arab and Moslem people tortured us when we were in Khartoum. I was attending University and it was difficult for me as a Christian female” and “the southerners had and have to learn that Arab culture and Islam are superior concepts in order to live peacefully in Khartoum. It would have been difficult to live together in one country”.¹⁸⁶ This suggests that the status quo which was established that allowed the two peoples of Sudan who were fighting to live apart in one country was a clear translation that complete negative peace could not be achieved and likewise positive peace. The reasons are that attitudes were still hostile and the behaviour violent due to their living apart and as such the conflict could not be transformed. Similarly aspects of peacebuilding which could have assisted to achieve liberal peace as advanced in the Liberal peace theory due to the same reason could not take place properly.

¹⁸⁴ Interview with Anna Ito, 8 July 2013, Juba- South Sudan.

¹⁸⁵ Interview with Susan Page, 4 October 2013, Bradford-UK

¹⁸⁶ Interview with Anna Itur, 08 July 2013, South Sudan and interview with a senior NCP negotiator, 27 October, 2013, United Kingdom.

Likewise, the parties were encouraged to make unity attractive most especially in the case of the southerners in order for them not to vote for separation during the referendum. The question is, if some of their core concerns were not resolved how this could have been the case?¹⁸⁷ The situation of failure to come up with solutions on the question of the national identity and religion advanced through the assimilationist policies of Arabisation and Islamisation begin to explain the tensions and the treats to a return to war that were there at the time and later after the separation of South Sudan.

5.3.3 The Southern Kordofan and the Blue Nile states resolution

The CPA included the resolution of the conflict in Southern Kordofan (which includes the Nuba Mountains) and the Blue Nile states as one of its protocols for the resolution of the North-South conflict. South Kordofan (Nuba Mountains) and the Blue Nile states according to the January 1, 1956 boundary are in Sudan (**See Figure 5.3**).

¹⁸⁷ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

Figure 5.3: Map of the locations of Southern Kordofan and Blue Nile States



Source: UN Maps, 2009

The history of the two states has mostly been linked to being part of southern Sudan as can be seen from the changes they went through in terms of provinces they belonged to and how they related with other provinces (**See table 5.1**). The areas had been part of the CDO which is viewed to have been a silent marker of the area supposedly to be southern Sudan by the Condominium regime.

The core concerns of the two areas against the GOS were similar to those of the south as have been indicated in chapter 4 but with an addition of a claim of land expropriation by the government which it was using for large mechanized farming schemes (Rogier, 2005:120). The main concessions in the protocol as part of the solutions to their concerns included; autonomy status, rotational governorship between NCP and SPLM every three years and 55% to NCP and 45% to SPLM in

the State Legislatures, the equal presence of the two armies (SAF and SPLM/A-M, including the JIUs), ad hoc funding mechanism through the National Reconstruction and Development Fund (NRDF) dedicated to the northern war affected areas with Southern Kordofan entitled to 2% of oil revenues as an oil producing state, popular consultations, a democratic mechanism to ascertain the view of the people of the States on the CPA implementation and the establishment of a land commission to deal with land issues (**CPA chapter V**). These concessions represented special economic, security and political arrangements to war affected areas that had fought alongside the SPLM/A but were not under the jurisdiction of the SPLM/A-M (De-Alessi, 2013:85).

The concessions in the protocol it is noted were not related to the core concerns/substantive issues of the people of the two areas which required to be settled as part of the agreement.¹⁸⁸ This was in addition to the fact that the protocol was authored outside the framework of the IGAD peace process chaired by Kenya and only brought in as part of the CPA (Johnson, 2011:118).

The problems with the protocol included, the two areas remaining firmly under the control of the north's jurisdiction dominated by the NCP, expropriation of land not addressed as the instituted land commission was only to review land contracts and leases and the examination of the criteria in use for land allocation, Sharia not touched upon but since the areas were in the north to have Sharia as the basis of their legislation and popular consultation which was a confusing term as it really was not related to a referendum or self-determination as were granted for southern Sudan and Abyei.

The Chief mediator had this to say on the protocol "the resolution was creative ambiguity. In the case of the popular consultations in East Timor, they were in fact a referendum but my view is that the two areas had to be sacrificed by the SPLM/A with a hope that may be through its position in the GoNU something someday would come out for the areas"¹⁸⁹. What was disheartening in regards to the resolution of the two areas was that the concerns were to be addressed within the framework of each of the state (South Kordofan and Blue Nile) (Iyob and Khadiagala, 2006:56).

¹⁸⁸ Interview with an SPLM/A negotiator, 27 October 2013, Bradford - UK

¹⁸⁹ Interview with General Sumbeiywo, 12 September, 2013, Nairobi – Kenya

The fact that the protocol did not adequately address the government's Islamisation policy which had more to do with the national identity assimilationist orientation and the land expropriation issues which were viewed to be critical to the resolution of the conflict in the two areas, implies that the government was going to have and would continue having problems with the governance of the two states.¹⁹⁰

Many troops in the SPLM/A-M came from these areas and with the developments which took place; it meant that these troops were likely to continue with the fighting.¹⁹¹ It is also important to note that historically many GOS troops also came from these areas. In terms of the popular consultations, the people were not going to be consulted on the protocol which implied that the exercise was an empty promise.

The fact that the areas were under the SPLM/A-M control but geographically and politically belonged to the north presented a dilemma to the parties during the negotiations. Similarly, the fact that the parties failed to resolve the concerns of the two areas in the CPA suggests that the parties faced a dilemma. These positions begin to explain the tensions and the threats to a return to war at the time and after the separation of South Sudan from Sudan.

Bercovitch and Jackson (2011:20) state that conflict resolution is about participation and modalities and that agreements are about issues covered and parties involved in them. Since the core issues of the two areas were not addressed in the protocol and the people of the areas were not allowed to participate fully in the process, then complete negative peace could not be achieved and likewise positive peace. The most hurting position however was that the two areas were denied a referendum on self-determination while the south and Abyei were granted.

Thus, the attitudes and the behaviour of the people of the area were still going to be violent and hostile and as such the conflict could not be transformed. The Galtung's ABC conflict triangle theory could not be applicable in this case. The failure to resolve the concerns of the people also meant that peacebuilding, which could assist to achieve liberal peace, could not take place as is advanced in the Liberal peace theory.

¹⁹⁰ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

¹⁹¹ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

5.4 The selective implementation of the CPA

The aim of the CPA was to end the protracted civil war through a democratic transformation process which would establish a system of government that would correct the imbalances of the past (Johnson 2011:168). The agreement required to be implemented in order for the required status quo to be attained. Implementation of a peace agreement according to Steadman et al., (2000:2) as in chapter 2 is a process of carrying out specific activities which were agreed in a peace process whose success is measured in relation to the ending of violence and the conclusion of war on self-enforcing basis.

In order to implement the Sudan CPA, a number of structures were put in place which included the Assessment and Evaluation Commission (AEC) (to monitor the implementation of the CPA provisions and production of mid-term progress reports) and the UNMIS (to monitor the ceasefire situation). The African Union High Level Implementation Panel (AUHIP) also later became part of these structures. It can be noted that AUHIP in this context became a new framework for resolving the conflict which initially was in the hands of IGAD. IGAD in this regard felt undermined.¹⁹² Despite the presence of the appropriate structures, the implementation of the Sudan CPA faced a number of challenges as the protocols and some of the important provisions were neglected, postponed or compromised.¹⁹³

Young (2012:107) states that Garang, the leader of the SPLM/A and Osman Taha the vice president of Sudan at the time during the negotiations of the CPA operated as if they would hold the presidency and could work out the inevitable problems of the agreement's problems and in this context the two agreed that the critical cases ranging from Abyei to border demarcation would ultimately be differed to and resolved in the presidency. The intractable problems facing the implementation of the CPA were left to the presidency but with the death of Garang and his replacement by Salva, the problems remained unresolved or unimplemented.¹⁹⁴ The

¹⁹² Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan. (It is noted that IGAD was left out in the composition of the institutions which were to monitor the implementation of the CPA. The view is that AUHIP was better placed to deal with the implementation issues as an organ of a regional body (AU) other than IGAD which was only a sub-regional body responsible for the countries mostly around the horn of Africa.

¹⁹³ Interviews with General Sumbeiywo, 12 September, 2013, Nairobi- Kenya and Susan Page, 4 October 2013, South Sudan.

¹⁹⁴ Interview with Alan Goultry, 5 November 2013, London –UK.

implementation of the CPA by the GoNU had been selective and at times slowed deliberately.

The main problem facing full implementation of the agreement was that the National Congress Party (NCP) saw the CPA as a threat against its own existence due to the fact that an entirely implemented CPA would create a more democratic and transparent Sudan which would challenge the power base it had at the time. The neglect/non-implementation, postponements and compromises retarded the effective resolution of the north-south Sudan conflict and affected the relationship of the concerned two parties.

5.4.1 The Abyei Resolution Protocol

The Abyei protocol as part of the CPA was meant to resolve the dispute between the north and south Sudan concerning the Abyei area and to contribute to the larger picture of the agreement. Abyei is a source of dispute between Sudan and South Sudan for the obvious reasons of natural resource endowments (oil and pasture land) and its centrality in terms of the boundary demarcation issue between north and south Sudan.¹⁹⁵

Abyei is home to the Ngok Dinka tribe, cousins of the south's populous Dinka tribe, and bordered to the north and north east by the Misseriya Arab cattle herders (*Baggara*) who pass through the area every year to graze their animals (Johnson, 2011:35). The two tribes lived within separate administrative boundaries in colonial days, until 1905, when the British transferred the nine chiefdoms of the Ngok Dinka in Abyei from Bahr el-Ghazal in South Sudan to Kordofan province in north Sudan (**see table 5.1**). During the two wars in Sudan, the Ngok Dinkas began to gravitate increasingly towards the southern rebels and the south's cause while the Misseriya received preferential treatment from the central government and identified firmly with northern Sudan (Deng, 1995:292).

The Abyei area is problematic because it once used to be part of southern Sudan but for administrative reasons was transferred to the north in 1905. Additionally, its status is complicated by the presence of huge oil reserves and good pasture for animal grazing in terms of resources and divisions of the tribes associated with the

¹⁹⁵ Interview with Muriuki, 13 September 2013, Nairobi – Kenya.

area during the war (the Ngok Dinka supporting the south and the Misseria Arabs supporting the north). Thus, the parties to the conflict faced/face a dilemma in terms of ownership of the area and the presence of the resources in the area. This implies that the agreement was challenged.

The Abyei protocol in the CPA defined the process by which the dispute was to be resolved but it did not define the status of the territory of Abyei (residents of the area, the boundaries of the area and the amount of oil revenues which could be derived from the area).¹⁹⁶ Thus, the protocol did not have adequate details to assist with the complete resolution of the conflict. The main concessions of the Abyei protocol include the outlines of the provision for administration, the sharing of local oil revenues, and the guarantee of continued access to traditional grazing areas by both the Ngok and Misseriya **(CPA chapter IV)**.¹⁹⁷

Natural resources provide a strong base for territorial attachments and that territorial attachments are directly or indirectly connected to natural resources (Abdalla, 2010:3). The case of Abyei suggests that the oil abundance and the grazing rights of the Misseriya were and are at the heart of the dispute.

Most of the oilfields lie in South Sudan and that eighty percent of the oilfields that lie within northern Sudan are found in Abyei (Raftopoulos and Alexander, 2006:33). This suggests that if Abyei would become part of the south, the resultant new international boundary would transfer these fields from Sudan to the newly independent South Sudan state. The parties faced a dilemma on this aspect which may explain the tensions and the threats to a return to war at the time and even after the separation of South Sudan.

The time of the CPA mediation/negotiation, oil was contributing about 60% of Sudan's annual budget and 90% of GOSS annual budget and that from the wealth sharing protocol GOS had lost out some of its revenues as it had to share it with the

¹⁹⁶ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

¹⁹⁷ Minute details include Article 3.1 of the protocol provided the details of the oil revenue sharing, Articles 8.1 and 8.2 provided the details of the referendum for Abyei and Article 5.1 provided the details of the creation of the Abyei Boundaries Commission (ABC) while article 6.1 provided the details of the residents of Abyei.

south.¹⁹⁸ This suggests that north Sudan had a lot to lose if Abyei would opt to become part of the south.

Regarding defining the Abyei area, the task was left with the ABC and their report was to be final and binding but surprisingly after the report was submitted, the GOS rejected it (Johnson, 2007:14). The reason for the rejection was that the definition of the boundary placed active oil fields inside the Abyei Area. Officially the NCP presents resistance to the boundary as grassroots opposition from the Misseriya but in reality the resistance is mobilized from within the government.¹⁹⁹ This position by the GOS implies that the protocol could not be implemented.

Oil revenue and grazing rights of the Misserya to the area is the major problem for the GOS while loss of territory of a close tribe and the oil in the area plays out a big role in the case of the GOSS. These factors hardened the position of the GOS to the extent that it decided to become uncooperative on the issue as much as possible.

Moro (2011:78) states that tensions usually escalate where political elites are keen to exploit bad inter-group relations so as to further narrow interests in resources and power. The Misseriya of the North and the Ngok Dinka in this case were being used as pawns in the conflict between the north and the south.

Due to further impasse on the definition of Abyei, the parties took the issue to the Permanent Court of Arbitration (PCA) at the Hague. Although the north was successful in that the Heglig area was delinked from Abyei, the protocol still remained unimplemented (Bockenforde, 2010: 563). The GOS had thus, resolved not to implement the protocol thereby reneging on the agreement.

The GOS did not implement the protocol as fighting broke in and out of Abyei during the period 08-11 January 2011 just as voting in southern Sudan on the referendum had begun which was to have taken place simultaneously with the referendum of Abyei.²⁰⁰ This scenario implies that there was selective implementation of the agreements as the GOS was able to implement other protocols but for economic reasons decided not to implement this protocol.

¹⁹⁸ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

¹⁹⁹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

²⁰⁰ Interview with Muriuki, 13 September, 2013, Nairobi – Kenya

The attacks on Abyei were organised by the GOS using its SAF, PDF and northern militias and were aimed at removing southern Sudanese Police who had been protecting the inhabitants of the area in order to create chaos with a view to block the residents of Abyei to conduct their referendum as was stipulated in the CPA. Due to the chaos, it was announced that the referendum could not take place and effectively meant that the whole protocol could not be implemented as the interim period of the CPA also ended as the attacks took place.²⁰¹

One respondent commented on the situation of Abyei that: “If you are a leader in north or south Sudan and you give up Abyei then you are lost politically”.²⁰² Another respondent noted that “the chaos in Abyei is the fault of the SPLM/A. They did not want to cooperate with us and in return that is what they got”.²⁰³ The GOS in this case was a spoiler on the implementation of the Abyei protocol as it prevented the referendum not to take place.

The non-implementation of the protocol created a dilemma in the sense that the future of Abyei and the relationship of north and the south became uncertain and the spirit of the CPA could not be guaranteed. Thus, the attitudes and the behaviour of the parties were still hostile and violent. As such, the conflict could not be transformed to achieve complete negative peace in the context of the Galtung’s ABC conflict triangle theory. Similarly, post-peacebuilding activities could not take place in order for liberal peace to take root as is advanced in the Liberal peace theory.

5.4.2 The power sharing protocol issues

The Machakos protocol in the 2005 Sudan CPA provided the South with a right to self-determination through a referendum after a six and half year period. Self-determination is viewed as the freedom to form own government by a state/people without external influence and that it can be exercised either within a state (unity) or outside the state (separation). The power sharing protocol in this case was a direct result of the Machakos protocol considering the fact that the South had been handed the right to self-determination as part of the conflict settlement.

²⁰¹ Interview with Susan Page, 04 October 2013, South Sudan

²⁰² Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

²⁰³ Interview with Said al Khatib, 27 October 2013, Oxford-UK

Power sharing as in chapter 2 and 4 is viewed as practices and institutions that result in broad based governing coalitions generally inclusive of all major groups in a society, which can reconcile principles of self-determination and democracy in multi-ethnic states and principles that are often perceived at odds (Sisk (2002:vii).

According to Rogier (2005:107-113), power sharing in the CPA was categorised with activities at the national level and at the asymmetrical federalism level in the case of southern Sudan. The distribution of power at the national level included 52% for the NCP, 28% for SPLM/A, 14% for political parties in the north and 6% for southern Sudan parties.²⁰⁴ According to the protocol, the distribution of ministerial and state ministerial positions was to follow the power sharing rationale whereby the ministries had been categorised into sovereignty, economic and service clusters (**CPA chapter II Article 2.5.3**).

This meant that the NCP would choose a ministry and the SPLM/A would take the other in the cluster pair. Despite these clear instructions of positions distributions, the NCP dominated leadership in the key ministerial positions. Although there was a clear template on the distribution of the ministerial positions in the power sharing protocol, all the institutions which are critical in the running of the state went into the hands of the NCP members.²⁰⁵ For example, the ministries of Energy and Mining and the Finance which were paired together and expected to be shared between the two parties were all taken up by the NCP.

All the institutions which were most critical like the economy (oil sector), National Security (Military and State Security) and the application of the Sharia law were all in the hands of the NCP. Thus, changes which could have reflected the solutions of the concerns that had triggered the conflict would be difficult to implement. Power was not being shared fairly and that while intended to manage the conflict would actually create a crisis as the Southerners were being frustrated.

The SPLM/A got eight ministerial posts (Foreign Affairs, Foreign Trade, Investment, education, Health, Humanitarian Affairs and Cabinet Affairs) and had ministers of

²⁰⁴ CPA, Chapter II, Article 2.2.5.

²⁰⁵ Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

State or junior ministers in virtually all the ministries they did not control.²⁰⁶ The portfolios meant that SPLM/A did not have any position of influence to change anything as they did not have the power to do so. This was a cause for concern on the part of effective power sharing. A big concern in the case of implementation was that few people who had been at the Naivasha talks from the two parties (NCP and SPLM/A) had been given ministerial positions in the GoNU. One respondent commented on the appointments that “the GoNU looked like the government of national split”.²⁰⁷

Thus, implementation of the CPA and power sharing for that matter without assigning people informed of the rationale behind the commitments and the background of the concessions or ways in which the negotiations had intended the provisions to be carried out would be very difficult. SPLM/A cabinet or deputy ministers in the GoNU who were given offices in Khartoum were isolated and marginalised and thus resulted in them being viewed as figure heads.

There was either deep rooted lack of trust between the two parties or deliberate efforts to undermine the CPA and as can be noted did not make unity attractive as was envisaged during the CPA mediation/negotiations. The attitudes and the behaviour of the individuals in the parties had not changed, that is to say, they were still hostile and violent due to what was happening on the ground and in that case the conflict could not be transformed. Complete negative peace could be achieved and even later in the process positive peace could not be attained. Thus, the agreement was facing, the tensions and the threats to a return to war at the time and even after the separation of the south. In the context of the affirmative action for the southerners as part of the asymmetric federalism drive, the civil service commission which was supposed to lead the initiative was delayed in its formation.²⁰⁸ This resulted in the civil service remaining dominated by the Northerners.

The lack of implementation of the affirmative action agenda on the southerners' employment meant the SPLM/A ministers finding themselves being forced to rely on civil servants who were NCP appointees who at all cost tried not to serve them well.

²⁰⁶ Interview with Anna Ito, 8 July 2013, Juba- South Sudan

²⁰⁷ Interview with Hilde Johnson, 28 August, 2013, United Kingdom

²⁰⁸ Interview with Nhial Deng Nhial, 05 July, 2013, South Sudan

One of the respondents had this to say on this: “[t]hey gave me a nice office, a big car, police escorts, but I had no power, the civil servants working with me could not brief me, show me documents or carry out my instructions”.²⁰⁹ Thus, implementation of the power sharing protocol on this aspect could not contribute to the effectiveness of the CPA regarding negative and positive peace as feeds of conflict resolution threaded through the Galtung’s ABC conflict triangle and the Liberal peace theories. Power sharing in an agreement must be seen as an instrument for participation that allows for the parties to work as equal partners during both the negotiations and the implementation phases (Hampson, 1996:222).

This was not the case between the NCP and the SPLM/A. With the state of affairs of the implementation of the power sharing protocol some of the provisions in the protocol could not be achieved. The way the NCP and the SPLM/A scenario played out meant that the attitudes were still hostile, behaviour violent and the conflict between them not yet transformed as is advanced in the Galtung’s ABC conflict triangle theory. Post-conflict peacebuilding could not be undertaken to achieve liberal peace as is advanced in the Liberal peace theory.

5.4.2.1 Border demarcation, census and elections

The CPA stipulated that elections be held during the third implementation year and left the date of the presidential elections open. Young (2012:138) states that the CPA included border demarcation and a national census as the necessary pre-requisites for the planned elections which were perceived as an element which was going to bring about the democratic transformation of Sudan as part of the liberal peace agenda. Demarcation of the border in this case was going to assist with the proper allocation of resources for developmental purposes, power sharing and constituency borders for the intended elections exercise in addition to the issues of citizenship, grazing rights, security and economic cooperation (Hemmer, 2009:11).

The areas that had to be demarcated included the Blue Nile and the Southern Kordofan states in northern Sudan which were governed by the CPA’s two areas protocol, the disputed Abyei area with a protocol specific to it and five states in south

²⁰⁹ Interview with Anna Ito, 8 July 2013, Juba- South Sudan

Sudan that were subject to the major CPA protocols governing power sharing, security and wealth sharing aspects (Belloni, 2011:419).

Most of the areas in question are endowed with mineral resources which include oil and also provide grazing areas to pastoral tribes of northern Sudan during dry seasons.²¹⁰ Thus, the CPA partners were aggressively competing over rights of access to land and resources. The border demarcation exercise in this case presented a dilemma to the parties as none of them wanted to lose out on the resources found in the areas and the people of the areas who support them.

The parties due to these factors dragged their feet to carry out the exercise and in the process left the property rights and land ownership issues to fester without a solution during the interim period. This begins to explain the dilemmas which were faced by the parties and the tensions and the threats to a return to war at the time and after the separation of South Sudan.

A Technical Border Commission (TBC) was an institution which was mandated to carry out the border demarcation exercise. In this case the TBC was to demarcate the northern-southern Sudan border as it existed on 1 January 1956, with a directive to consult all relevant maps, drawings and documents, visit all the areas in northern and southern Sudan, consult leaders, administrators and foreign expertise if need be within a period of six months (Saeed, 2010:7-8).

It is alleged that no map exists that accurately depicts the northern-south Sudan boundary at independence and thus presented the TBC with a challenge²¹¹ **(See figures 3.1& 5.1)**. This evidence suggests that the exercise had become a political and not a technical venture as it was initially understood. Failure to demarcate the border in this case however meant failure to resolve the northern-southern Sudan conflict. This scenario implies that the work of the TBC was important to the realisation of peace in the case of Sudan and South Sudan.

It can be argued that the TBC's task was difficult as it had already been established that there were no maps which had been produced which clearly indicated the January, 1, 1956 boundary of northern and southern Sudan. **Quote on p.211 of this**

²¹⁰ Interview with Leben Moro, South Sudan, 5 July 2013, Juba –South Sudan

²¹¹ Interview with Muriuki, 13 September, 2013, Nairobi- Kenya

study refers. This implies that all the tasks which the TBC was supposed to carry out were important but could not yield the required results as was expected.

It is alleged that the TBC which was instituted to carry out the demarcation exercise, had not completed its work by the time of the 2008 census and even the 2010 elections (had reached agreement only on 80% of the border) although both these processes depended in part on the agreed definition of the territory of southern Sudan.²¹²

This implies that the basis of all the oil revenues sharing as had been agreed at the time were not correct as there was no definite definition of the two territories, the census exercise which followed was not correct and as such sharing of resources and constituencies demarcation especially in the border areas were flawed. Likewise the redeployment of the SAF and the SPLM/A in the areas as was planned was also not correct.

Both sides blamed each other for the developments on this aspect, but it is felt that the SPLM/A did not push hard on the issue as it did not want the exercise to interfere with its referendum.²¹³ The SPLM/A felt that the demarcation of the border could be resolved better if the south became independent as at the time it could be able to get international support as an independent country. The SPLM/A's attitude in this case prejudiced the case of conflict resolution as the border remained undefined at time and even now.

This position suggests that the undefined boundary at the time hindered the CPA implementation, fuelled mistrust between its signatories and most recently, contributed to heightened anxiety and insecurity along the border.²¹⁴ Complete negative peace and likewise positive peace could not be achieved as the attitudes and the behaviour of the parties had not changed to warrant the transformation of the conflict. Liberal peace in this case could not be attained.

Census is an important stage of the preparations for elections as it is used to determine the number of eligible voters. The Sudan census was required to provide

²¹² Interview with Douglas Johnson, 27 November 2013, Oxford-UK

²¹³ Interview with Pagan Amum, 05 July, 2013, South Sudan

²¹⁴ Interview with Bona Malwal, 22 October 2013, Oxford-UK

data in order to adjust the power and the wealth sharing percentages at the national level which had been allocated to the NCP and the SPLM/A.²¹⁵ The Central Bureau of Statistics (CBS) in the north and the South Sudan Commission for Census Statistics and Evaluation (SSCCSE) in the south were entrusted to oversee the census (Jooma, 2007:8).

The Sudan census had been planned to take place before the end of the second year of the interim period although due to challenges (funding and capacity) beyond the control of the organisations entrusted to conduct the event, was delayed and took place in 2009.²¹⁶ After the census was finally conducted in 2009, the south rejected its results despite the census in the south being carried out by its own agency (South Sudan Commission for Census Statistics and Evaluation (SSCCSE) (Jooma, 2007:8). The officially announced figures indicated that southern Sudan had just a little over 8 million people while the SPLM/A argued that the population of the south should consist of at least one-third of the country's total population of 39 million.

More than 40% of the southerners may not have been counted in addition to the fact that the results may have been rigged.²¹⁷ Likewise it is noted that the NCP and the SPLM failed to overcome their differences over the census results and the referendum law but decided to resume their dialogue on the issues²¹⁸. Ashworth (2009:14) states that after the exercise, the southern census body freely shared its raw data with its northern counterpart but those in the north refused to do the same. It was at this point that the census is believed to have been rigged. The assumption is that the north changed the figures after it had full knowledge of the southern Sudan figures and comments from the two sources cited above collaborate with this position.

The problem might have originated from the fact that the exercise was conducted by two different bodies SSCCSE in the south and CBS in the north which may not have

²¹⁵ Interview with Susan Page, 04 October, 2013, South Sudan

²¹⁶ CPA Chapter II, Article 1.8.1.

²¹⁷ Interview with General Sumbeiywo, 12 September, 2013, Nairobi- Kenya

²¹⁸ Interview with Susan Page, 04 October 2013, South Sudan

trusted each other.²¹⁹ Lack of trust and corruption in this case emerged as a problem between the two parties (NCP and SPLM/A). This situation presented a danger to the peace agreement and required the NCP and the SPLM/A to break the impasse over the census, since it had a direct bearing on the issues of power-and wealth-sharing.

This suggests that the census results could not be used as a basis for power and wealth sharing, the intended elections and even for the referendum later. The census acted as a spoiler to the partial negative peace which had been there for a time and as such could not allow effective post-conflict peacebuilding in order to attain positive peace as part of liberal peace as advanced in the Liberal peace theory.

The demarcation of the border and the census activities were important benchmarks for the 2010 polls as they were supposed to provide a basis for a representative allocation of seats in the legislature. Liberal peace demands at least the appearance of democratic accountability and in that regard the CPA stipulated that elections be held not later than the end of the third year of the interim period.²²⁰ The chief negotiator had this to say on the elections: “[a]fter three years all the parties will get a chance to compete for power through the electoral process” (Young, 2012:136)

The elections would spearhead the democratic transformation of Sudan in the sense that they would open up the political space to other parties which had been closed by the IGAD mediation frameworks and the power sharing protocol which had only concentrated power to the NCP and the SPLM/A.²²¹ The NCP and the SPLM at the time of the signing of the Agreement were not national democratic political parties as they had not been democratically elected but raised to their status through a coup (NCP) and a mutiny (SPLM/A-M). The elections in this case would then serve to legitimise them.

Despite the benefits and the good spirit in which the CPA had been agreed to have elections as part of peacebuilding as articulated in chapter 2, the elections were marred with a number of challenges.²²² They were delayed, had a background of failure to demarcate the border between the two regions, contested census results in

²¹⁹ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

²²⁰ CPA chapter II, Article 1.8.3

²²¹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

²²² Interview with Susan Page, 04 October, 2013, South Sudan

the south and rigging by the North and a scenario of uncertainty about the North honouring them (Reeves, 2012:2). This suggests that the elections were going to create problems in the relationship of the two parties.

The elections were competed for at six levels- National (President), southern Sudan (President), state (Governors), national legislative assembly, southern Sudan legislative assembly and the state legislative assembly (**see table 5.1**). A number of developments complicated the scene of the whole exercise in the case of the parties and the candidates at a number of levels.

Salva Kiir as the President of southern Sudan and the first Vice President of Sudan at the time opted out of the national presidential race and SPLM/A as a party through a political Bureau and not a National convention nominated Yasir Arman, a northern prominent member as its national presidential candidate and withdrew from all the elections in the north apart from the Blue Nile state just before the election date²²³. Following the action of the SPLM/A, other northern political parties boycotted the elections as they claimed that free and fair elections were not possible, a move that eventually resulted in Bashir winning the Presidential elections (El Battalani, 2009:210-211).

The decision by the SPLM/A to run Yasir instead of Salva who was the leader of the SPLM/A gave out a powerful indication that despite the party's commitment to a united Sudan, Salva was positioning himself to be a leader in an independent South Sudan.²²⁴ The move may also have been facilitated by the fact that the law could not allow him to contest in two races (National and southern Sudan levels) and a consideration that he could not win at the national level.

Garang's position as the leader of the SPLM/A had been to have a united Sudan. The position which Salva took in this regard implies that SPLM/A had become a separatist organisation although others within it still supported the agenda of a united Sudan. Thus, SPLM/A faced a dilemma in regards to its position on the options of the right to self-determination in the agreement.

²²³ Mutrif Sadiq , 13 November, London – UK.

²²⁴ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London- UK

The provisions in the CPA to make unity attractive required the two parties to jointly address and resolve the causes of the conflict and to restructure fundamentally the nature of the Sudanese state (Johnson:2011:176). From what had transpired this was no longer going to be possible and translates that complete negative peace could not be achieved

According to Curless (2010:7), Bashir won 68% of the vote in the Presidential elections following the withdrawal of the SPLM/A candidate while Salva in the south's Presidential elections won with 93%. These results were telling in that come the referendum, the south was going to separate from the north.²²⁵

The withdrawal of the SPLM/A's presidential candidate and the boycott by the SPLM/A and the northern opposition parties gave the NCP an opportunity to enlarge its majority in the legislature.²²⁶ The direct translation in this regard is that democratic transformation which could only have been realised through the elections could not take place. Similarly, due to the majority of the NCP in the legislature, government would always carry the day in major political decisions of the country.

The actions of the SPLM/A's show that its main focus in the elections was merely to obtain a guarantee for the 2011 self-determination referendum and as such was less preoccupied to challenge the NCP and Bashir in the north as was indicated by Salva's decision to focus on the Southern presidential elections only and the withdraw of their presidential candidate days before the elections.²²⁷ The status quo which developed after the elections implied that the two parties were not prepared for a united Sudan and as such complete negative peace in the context of the conflict resolution could not be completely achieved.²²⁸

It is contended that it was a mistake to have the elections before the referendum as at the time there were only a few months that were left before it could be held. However, holding the elections as was planned would create tensions between the winners and the losers which would eventually affect the conduct of the referendum

²²⁵ Interview with Susan Page, 4 October 2013, Bradford-UK

²²⁶ Interview with Alan Goultry, 5 November 2013, London –UK

²²⁷ Interview with Sadiq al-Khatib, 27 October, Oxford, UK

²²⁸ Interview with Susan Page, 4 October, 2013, South Sudan

itself and the relationships of the parties and the individuals concerned.²²⁹ David Yau yau for example after losing in the elections rebelled against the GOSS and is still fighting it supported by the GOS (Copnall, 2014:165). It would have made a lot of sense for the elections to be held after the referendum when it would have been clear on the position of southern Sudan on its options of unity or separation. The elections would have then taken place either in the potential two countries or in one unified country.

The case of disagreements over the demarcation of the border, the national census and the shambled elections meant that unity between north and south Sudan had failed to be attractive and that the underlying causes of the conflict had not been resolved/transformed.²³⁰ It is then argued in this case that power sharing as a protocol could not be fully implemented and realised. Thus, the 2010 elections wrongly grounded the CPA commitments to democratic transformation and the unity of Sudan in addition to dispelling any illusions about the democratic credentials of the SPLM/A.

Thus, the attitudes and the behaviour of the parties were still hostile and violent in the case of the Galtung's ABC conflict triangle theory and likewise peacebuilding activities with the elections as an example could not be effective in the case of the Liberal peace theory as the conflict could not be transformed. This explains the dilemmas the parties faced and the tensions and threats to a return to war at the time and after the separation of South Sudan.

5.4.3 The wealth sharing protocol

The wealth sharing protocol was based on trying to address the core concerns on the socio-economic gap between the centre and the periphery. The protocol was a convergence of the conflicting views on the best way to promote unity with the SPLM/A claiming the necessity of correcting historical imbalances in regional development and the GOS refusing to focus exclusively on the southerners needs (Rogier, 2005:129).

²²⁹ Interview with Adams Oloo, 12 September, 2013, Nairobi- kenya

²³⁰ Interview with Said al Khatib, 27 October, 2013, United Kingdom

The common understanding was that the implementation of the protocol was marred with disagreements between the GOS and the GOSS over oil revenues and oil contracts. Bray and Lunde (2005:4), state that too often natural resources turn out to be a curse rather than a blessing for developing countries as they are closely associated with corruption.

The NCP in the GoNU attained the control of the Ministries of Finance and Mining and Energy and a pole position in the running of the National Petroleum Commission (NPC).²³¹ Due to this kind of positioning, the SPLM/A could not access any information relating to the oil production figures and the existing contracts at the time and similarly was at most locked out in terms of decision making in the negotiations of oil contracts. This state of affairs suggests that there was no sincerity and transparency regarding the protocol and the overall implementation of the whole agreement to resolve the conflict between the parties specifically in the case of equitable distribution of resources.

A comparison between government reports and the annual reports of the Chinese National Petroleum Corporation (CNPC) operating in South Sudan indicated that Khartoum's figures were between 9% and 26% less than the production reported by CNPC while figures for the northern oil fields agreed with those of the CNPC. Likewise NCP in 2005 claimed that the share of oil revenues for the south was \$798.4 million and after administrative services, the South was to receive only \$523.3 million of the remaining \$603.9 million of the revealed calculations (Johnson, 2011:170).

The figures which were being provided to the SPLM/A were manipulated as they did not have access (despite having a state minister in the ministry) to the records on the quantity of the oil sold and the proceeds therefrom. This meant that the North was swindling the south which in essence could not help bridge the gap of mistrust between the two parties.²³²

The SPLM/A signed an oil agreement with the White Nile and Moldovian Ascom companies in oil blocks which had already been leased to a Total led consortium

²³¹ Interview with Hilde Johnson, 15 November, 2013, South Sudan

²³² Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

since 1980 (Wennmann: 2010:23). The SPLM/A in this case clearly violated the CPA as it did not have such a right under the agreement (**CPA Chapter III, Article 4.2**).

The north lacked honesty in the transactions of the oil business and on the figures of the revenues which were to be given to the south. Similarly, the south demonstrated a lack of commitment to the agreement by violating what had been agreed in the context of oil contracts. The oil revenues and contracts transactions were not being carried out with honesty and as such created mistrust between the parties and eventually eroded the spirit of making unity attractive.²³³

Raftopoulos and Alexander (2006:31) state that the smooth implementation of the wealth sharing protocol specifically oil revenues required to be dependent on the demarcation of the North-South border specifically along the oilfields. Sudan at the time had and has contested areas which were not and are yet to be clearly defined with Abyei an area rich in the oil resource included. The North claimed that the Heglig oilfield (Panthou), (an area 70km north of Unity State in the south) was outside the south's area while the south felt otherwise (Bockenforde, 2010:560).

Demarcation of the north-south border would have assisted to identify the oilfields from which the south and the north were and are entitled to the revenues. The two parties faced dilemmas in how the oil revenues were to be shared in the absence of a clearly defined border. This begins to explain the tensions at the time and after the separation of southern Sudan from Sudan.

The scenario implies that the sharing of revenue during the interim period was based on wrong parameters and as such exacerbated the chances of the conflict not being resolved. The push and pulling evidenced on the issue was testimony enough that the parties were on a collision course and as such unity was no longer attractive. Attitudes, behaviour and the conflict due to these problems could not change to facilitate conflict resolution/transformation. Similarly, although talked about a lot as mostly part of the implementation, peacebuilding as part of the liberal peace theory appeared to be troubled.

²³³ Hilde Johnson, 22 August 2013, Juba-South Sudan

According to Brosché (2007:8), the issues of border demarcation, failure to resolve the Abyei issue and the slow implementation pace of the other protocols of the CPA forced the SPLM/A in 2007 to withdraw from the GoNU during the interim period. Due to developments like these, it is noted that the NPC setting was problematic, revenue sharing did not have a concrete basis as the border was not demarcated which could have defined the oilfields from which revenues could be shared and the GOSS lacked the capacity in the oil industry which played out negatively on the issue of revenues. Likewise lack of respect for contracts by both parties created an atmosphere of mistrust and transparency and that all these factors together made unity not to be attractive and for the conflict to be difficult to resolve.

5.5 Conclusion

The CPA was meant to put together the causes of the conflict and through an implementation process address the root causes of the north-south Sudan conflict (Young, 2012:99). No peace treaty can undo the past but can only address and attempt to redress the consequences of the past and the CPA was not an exception.²³⁴ The untouched issues, the unresolved issues and the selective implementation of the protocols and some of their provisions and issues that emerged as milestones before the referendum are evidence that the parties faced dilemmas in most of the issues during the mediation, the negotiation and the implementation processes.

The competing aspirations of the NCP and SPLM/A during the mediation and the negotiation of the CPA contributed to the status quo at the time. However, the death of John Garang who was the leader of the SPLM/A may have affected the implementation of the CPA as the NCP felt threatened that further compliance would lead to its undoing since the successor of Garang was perceived more as a separatist.²³⁵

The untouched issues and the unresolved issues implied that the attitudes and the behaviour of the parties were still hostile and violent and likewise the conflict

²³⁴ Interview with Johnson, 27 November, 2013, Oxford, United Kingdom

²³⁵ It is however argued that the NCP did not want to implement the agreement in part because they believed that the South would vote for separation which would come with losing territory and oil as strategic resources while the South was more likely to vote for separation since the agreement was not being implemented to the full.

structure had not changed or transformed as is advanced in the Galtung's ABC conflict triangle theory. This meant that complete negative peace could not be achieved and similarly could not aid a transition to positive peace.

The selective implementation of the agreement directly translated that peacebuilding in the post-conflict period could not be focused properly. This implies that democratization, economic interdependence and the international law and its institutions which reflect the liberal peace as is advanced in the Liberal peace theory could not take root. Thus, positive peace became out of question. The problems of the untouched issues, the unresolved issues and selective implementation of the CPA in this case explains the tensions and the threats to a return to war which were there at the time and after the separation of South Sudan from the North.

The next chapter discusses the referendum, the post-referendum and the post-independence issues and the frameworks of the conflict resolution efforts.

Chapter 6

6.0 The referendum, post-referendum, the post-independence issues and the conflict resolution efforts

6.1 Introduction

The 2005 Sudan Comprehensive Peace Agreement (CPA) was a landmark agreement which had aimed at bringing an end to Africa's longest standing war between north and south Sudan as part of conflict resolution in Sudan. The agreed principles as part of the key features of the agreement included unity for the people of Sudan and the right to self-determination in addition to an internationally monitored referendum after a six and half years period.²³⁶

The agreement was part of a conflict resolution process as in itself without other approaches would only be conflict settlement. Conflict resolution is a process as has been articulated in chapter 2 (Ramsbotham, et al., 2011:30). The agreement was only reached after an intensive mediation/negotiation process and required to be implemented in order for it to achieve its objectives. Belloni (2011:419), states that the CPA's ultimate objective was to make unity attractive to the south through a process of democratic transformation although self-determination of southern Sudan through a referendum during the interim period became more prominent.

According to Rolandsen (2011:560), some issues were left unresolved while others were not touched during the CPA mediation/negotiation process. Likewise during the implementation phase some issues which were agreed on were not implemented and that new issues emerged which had not been anticipated as the milestones which were planned to be undertaken before the referendum which included border demarcation, census and elections were being executed. Woodward (2011:9) states that the problem that emanated from the implementation phase milestones resulted in the NCP becoming dominant in the North and the SPLM/A-M in the south. This status quo forced Sudan to become two regions and made the referendum when it was carried out to be a formality of the division which had already occurred.²³⁷

²³⁶ CPA Chapter 1, Articles 1.1, 1.3 and 2.5.

²³⁷ Interview with Susan Page, 4 October 2013, Bradford-UK

The anticipation brought about by the outcomes of the elections was confirmed during the referendum as the South voted for separation. Due to the results of the referendum, the outstanding CPA issues, issues which emerged during the implementation phase and likewise during the referendum, the post-referendum period and after the independence of South Sudan required resolving in the interest of good relations and peace between north and south Sudan.²³⁸ Due to the outstanding issues from the previous processes, the referendum, the post-referendum and the post-Independence eras, tensions and threats to a return to war have been prevalent between the areas/states. Without good relations, high expectations of a better future would remain a mirage if the recurring disputes would not be resolved amicably between the two regions/states.

The chapter in this regard will examine the referendum, post-referendum, the post-independence issues and the IGAD and the AUHIP conflict resolution frameworks.

6.2 The referendum

The referendum as articulated in Chapter 4 and 5 originated from the southern Sudan demand for self-determination as a result of serious governance concerns with the government of Sudan which had triggered a conflict that spanned almost a period of 50 years. The Machakos protocol provided the basis for the right to self-determination and a referendum vote in order for the south to determine its future status by either confirming the unity of Sudan or its separation from the North. **(CPA Chapter I, Article 1.3)**. The CPA provided for a separate referendum on the same for the Abyei area and scheduled it to take place simultaneously with that of Southern Sudan **(CPA Chapter 4, Article 1.3)**.

Despite intermittent antagonism of the NCP and the SPLM/A, a timely and successful conclusion of the self-determination process in Southern Sudan and in Abyei would be a vindication of good intentions by both signatories of the CPA and its international guarantors (Verjee, 2000:5). Such a scenario would open Sudan to normalization of relations with western donor countries and international institutions and in the process enable peace between the North and the South although failure could also eventually mean tensions or a return to war.

²³⁸ Interview with Hilde Johnson, 18 August, 2013. South Sudan.

The Referendum Acts which were approved by the National Assembly in 2009 provided the conditions under which the referenda for southern Sudan and Abyei would be held.²³⁹ The South Sudan Referendum Act (SSRA) required a simple majority vote on a turnout of 60 percent. If the turnout requirement was not met then the referendum would be repeated within 60 days (Government of National Unity, 2009:23). The concern was about the turnout requirement which it is perceived was imposed to discourage the voters or for them to boycott the poll. Although the parties had agreed on the details in order for the vote to be accepted, the requirement was difficult to meet, may be in the interest of discouraging the Southerners and the Abyei people to vote for separation and to be attracted to the unity idea.²⁴⁰

Young (2012:177) states that the GOSS and the international backers of the peace process considered the referenda of South Sudan and the Abyei areas as the main objective of the CPA. The referenda in the areas would be used to gauge the commitment to democratisation of Sudan as failure would lead to tensions and threats to a return to war.

Salva as the president of the GOSS and leader of the SPLM/A while in the USA during a meeting at the UN and later during a keynote address to the Congressional Black Caucus stated that while unity had been a priority since the signing of the CPA, it was no longer an attractive option for the people of south Sudan and in that case unity had not been made attractive.²⁴¹ This position impressed upon all including north Sudan that south Sudan had positioned itself for separation and was not interested in the unity option come the referendum.

The referendum of southern Sudan took place as it was scheduled and 98.83 percent of Southern Sudanese voted for separation while only 1.37 percent voted for unity (**see table 6.1**). Thus, the 60 percent turnout and a simple majority requirement were met in order for the south to separate from the north. The vote in Abyei which was planned to run at the same time with that of Southern Sudan was suspended and since then the future status of the territory has yet to be resolved.²⁴²

²³⁹ South Sudan Referendum Act (SSRA) 2009, Chapter 2, Article 4 and the Abyei Area Referendum (AAR) Act 2009, Chapter 2, Article 4.

²⁴⁰ Interview with Said al Khatib, 27 October, 2013, London, United Kingdom. He alleged that the percentages laid for the referendum had raised concerns among the Southerners and it is believed that to extent the arrangement may have emboldened them to vote Separation at whatever cost.

²⁴¹ Interview with Dr Douglas Johnson, 27 November 2013, Oxford, United Kingdom

²⁴² Interview with Douglas Johnson, 27 November 2013, Oxford-UK

Table 6.1: South Sudan Referendum results

	Registered voters	Separation voters	Unity voters	Separation percentage	Unity percentage
South Sudan	3,770,600	3,697,467	16,129	97.57	0.43
North Sudan	69,597	38,003	27,918	57.65	42.35
Out of Country voting (OCV)	57,889	57,048	841	98.55	1.45
Grand Total	3,898,086	3,792,518	44,888	98.83	1.37

Source: South Sudan Referendum Commission, 2011:2

The evidence of the results of the referendum vote for the separation of the south was that there could not have been a reason for contestation. Contrary to the south Sudan situation, the case of the failure of the Abyei referendum to take place meant that one of the CPA protocols was not implemented.

Medani (2011:144) argues that in Africa, externally induced peace agreements historically have proven far less durable and effective than internally negotiated power sharing agreement. The case of Abyei stands out as its protocol was drafted by the Americans and was only brought to the parties for discussion and endorsement. This implies that the attitudes, the behaviour and the conflict structure as advanced in the Galtung's ABC conflict triangle theory had not changed and as such complete negative peace could not be achieved and likewise peacebuilding on the part of the political framework democratisation not being able to be effective to achieve positive peace as is advanced in the Liberal peace theory.

The blocking of the implementation of the Abyei and other CPA protocols can be related to as acts of bad faith on the part of the NCP which in essence was a direct act of sowing the seeds of conflict with the south. The reasons for the Abyei protocol's non-implementation were none other than the availability of the oil in the area and the protection of the grazing rights of the north's Misseria tribe which annually uses the area for their animals.²⁴³

²⁴³ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

The north simply did not want to lose more oil resources to the south hence the stance on the issue.²⁴⁴ One of the respondents from South Sudan quoted the President of Sudan in one of his speeches and said this: “we have given everything to South Sudan and we do not have anything new to offer”.²⁴⁵ The actions of Sudan over the Abyei issue were expected. Bona Malwal had this to say: “whatever had happened was not surprising. The whole issue was a replay of the history of Sudan whereby a tit for tat approach to issues is part of the culture in Sudan”.²⁴⁶

The scenario in this context suggests that the attitudes and behaviour of the parties were still hostile and violent and as such the conflict structure could be changed as is advanced in the Galtung’s ABC conflict triangle theory. The implication in this case is that negative peace could not be completely achieved. There were greater chances for the conflict to recur if the outstanding issues and the new issues resulting from mediation, negotiation and the implementation phases could not be resolved between them. The failure of the Abyei referendum begins to explain the problems the agreement encountered, some of the dilemmas which the parties faced and the tensions and the threats to a return to war at the time and after south Sudan had separated from the North.

6.3 The post-referendum issues

The referendum created a new form of relationship between north and south Sudan in that they were to formally become separate states due to the referendum results. The CPA did not define the relationship between the two areas in the event of a Southern vote for separation and arrangements on multiple issues were not in place (Blanchard, 2012:7). The outstanding issues from the mediation, negotiation and later the implementation phases required resolving in the interest of conflict resolution/transformation. Since the issues were to be dealt with after the referendum they came to be termed as the post-referendum issues.

²⁴⁴ Interview with a senior NCP/North Sudan negotiator, 02 December 2013, United Kingdom. Commenting on the issue, he stated that the North had given a lot and felt that it was only fair for them to hold on to Abyei.

²⁴⁵ Interview with Anna Ito, 8 July 2013, Juba- South Sudan.

²⁴⁶ Interview with Bona Malwal, 22 October 2013, Oxford-UK

Aljazeera Centre for Studies identified ten distinct post-referendum issues (Al-Kabashi, 2010:2), a Chatham house report identified 12 (Thomas, 2010:24), a House of Commons Library paper identified 8 (Lunn, 2010:19-20), the SSRA 2009 had 11 while the GOSS's own list included 11 major problems but perceived four of them to be the most critical during both the post-referendum and the post-independence eras. For purposes of easy management, the issues were categorised into four categories namely; citizenship, security, financial, economic and natural resources and international treaties and legal issues (Young, 2012:182). What was required to be achieved in the case of these issues was basically a negative peace which eventually was to be transited to a status of positive peace most specifically in regards to the relationship of North and South Sudan. In this chapter only the most critical issues will be discussed.

6.3.1 Nationality and citizenship

The questions of nationality and citizenship became very critical aspects especially after the South had opted to separate during the referendum vote. Assal (2011:3) perceives nationality in line with a country where an individual was born and citizenship as the legal right to belong to a particular country. Smith (2001:1857-1858) states that citizenship includes that acquired at birth and that which is acquired by a process of naturalization. The Sudan questions of nationality and citizenship were complicated by the problem of identity whereby the questions of Arab-African, northerner-southerner and Muslim and non- Muslim appeared to have had occupied a centre stage and viewed to have been one of the causes of the north-south conflict in the country.

Dewaal (2009:3) states that in spite of the controversies, disagreements and wars over the identity of the Sudanese nation; there has been no debate at all over who is classified as Sudanese. The position of the NCP in the case of the south opting for separation was that the southerners would be treated as foreigners and would lose their citizenship.²⁴⁷ The south's position called for giving people in the north and the South the right to choose citizenship in either of the two successor states. The debate between the parties on the issue of citizenship had primarily focused on Southerners in the North and less so on northerners in the south and pastoralists

²⁴⁷ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

from the north who move to the south at certain periods of the year to look for pasture and water for their animals²⁴⁸. This position suggests presence of cultural links between Sudan and South Sudan and as such solutions on the questions of nationality and citizenship require a deliberate sober approach in order to avoid unnecessary tensions and threats to a return to war.

Assal (2010:83) states that any agreement on citizenship in Sudan required to take account of the wishes of the concerned people, the traditional lifestyle of the pastoralists and border communities and the need to maintain livelihoods on both sides of the border. This evidence suggests that there was a problem especially among the Northerners on the aspects of nationality and citizenship which still gives an indication that the conflict in their minds had not ended.

The problem on the aspects of nationality and citizenship was that the NCP and SPLM/A had expressed contradictory opinions on them from a desk top position in the offices without consulting the people concerned. One respondent stated that the statements from Khartoum before the referendum projected a gloomy future of the relationship between the two areas if the South were to vote for separation and quoted the following speeches from senior NCP political leaders; The National Assembly speaker, Ahmed Ibrahim al-Tahir stated that, “southerners would be ‘second class citizens’ in the north while Kamal Obeid, the Information Minister, announced publically that: ‘They will not enjoy citizenship rights, jobs or benefits, they will not be allowed to buy or sell in the Khartoum market and they will not be treated in hospitals.’²⁴⁹

The southerners were given rough treatment in the north and were forced to travel to South Sudan where they did not even know where they were going to stay. The status quo meant that there was a requirement for the fate of the southerners living in the north and northerners living in the south to be negotiated. The rights of ease of travel of the pastoralists and the border communities between the two parts of the country required to be managed as part of resolving the conflict in order to achieve sustainable peace.

²⁴⁸Interview with General Sumbeiywo, 12 September, 2013, Nairobi – Kenya and Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom.

²⁴⁹Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

In Abyei, the Misseriya were blocking those trying to go to the south while the Ngok Dinka were blocking the seasonal migration of the Misseriya after the referendum²⁵⁰. Thus, although partial negative peace had been achieved, peacebuilding activities in the areas of justice and reconciliation and security which could have assisted to transform the conflict and achieve positive peace as is advanced in the Liberal peace theory could not be achieved. Darby and MacGinty (2008:4) state that reconstruction does not merely concern the repair of physical damage; instead it should extend to the re-building of fractured relationships and communities. This explains the challenges of the agreement, the tensions and the threats to a return to war the two areas/states have been experiencing.

6.3.2 Economic issues (debt, assets, oil and currency)

The wealth sharing protocol of the CPA featured as the main need in the resolution of economic issues as a response on the query of inequitable distribution of resources between the centre and the periphery. Decock (2011:6) states that the future of north and south Sudan depends on redefining how the two states manage conflict that stems from contested claims for control over and access to resources.

The main features of the wealth sharing protocol which included an outline framework for resource allocation in which was factored the division of oil revenues was a direct attempt to address the resources distribution problem.²⁵¹ However, issues of oil, debts, assets and currency appeared to be major in the context of the relationship between north and south Sudan after the separation of the South in the post-referendum era.

Williams (2011:74-75) states that rent seeking, grievances, economic instability, conflict financing and peace spoiling are the most critical links of resources on the economic aspect which fuel conflict. The CPA had managed to achieve partial negative peace but its failure to implement some of its protocols like the wealth sharing protocol which linked with the aspects of assets, debts, oil and currency complicated the achieved partial peace status and a transition to positive peace most specifically after the separation of the South.²⁵² The peacebuilding aspect on the socio-economic part on the peacebuilding pallet could not take root which could have

²⁵⁰ Interview with Bona Malwal, 22 October 2013, Oxford-UK.

²⁵¹ Interview with Abdelwahab EL-Affendi, 14 October, 2013, United Kingdom

²⁵² Interview with Alan Goultry, 5 November 2013, London –UK.

assisted to achieve Liberal peace as is advanced in the Liberal peace theory (**see figure 2.3**).

6.3.2.1 Assets and the national debt

Sudan as a state had national assets and properties of state owned companies both in the north, the south and overseas. Oil industry infrastructure (pipeline, refineries and the sea port) and embassies are cases in point (Thomas, 2010:24). These assets required to be divided up between Sudan and South Sudan.

The national debt of Sudan during the mediation/negotiation period stood at 39 billion Dollars (Young, 2012:185). Problems between the regions were that little debt financed investment reached the south and that some debt financing was used to fund the war against the South. The north wanted the south to take on a portion of the debt burden but the south rejected the idea as it argued that the funds now as the debt were used by the north to wage war against it.²⁵³

The evidence proffered on the issues of the assets and the debts suggests that the parties faced dilemmas on these aspects especially after the south's vote to separate from the North. This situation begins to explain the tensions and threats to a return to war by the two parties. The position of the parties in this context implies that their attitudes and behaviour were still hostile and violent and as such the conflict structure could not be changed as is advanced in the Galtung's ABC conflict triangle theory.

6.3.2.2 Oil

Oil is a major natural resource which is and has been at the centre of the Sudan conflict. Access to and control of oil wealth played a decisive role in sustaining and escalating the Sudanese civil war and played an integral role in financing the government's war effort (Baker, 2011:43). Under the CPA, oil revenues from oil pumped from the South were shared 50-50 between north and south Sudan but after the south's vote to separate, the south became entitled to all the revenues within its territory (Young, 2012:183). Considering the contribution of oil revenues to both

²⁵³ Interview with Said al Khatib, 27 October, 2013, United Kingdom

parties, the sharing in this regard remains the crucial issue in the relationship of North and South Sudan and an important aspect of future contention²⁵⁴.

Most of the oilfields which generated about 85% of the total oil production are in the south but the sole export route for the South which is landlocked is a pipeline which runs to the North to Port Sudan on the Red Sea (Belloni.2011:418). South Sudan and Sudan have an important part in the extraction and the transportation of oil and that their future is economically linked due to these factors.

In spite of the two states' dependency on oil, during the post-referendum negotiations neither side was able to agree on a formula for the sharing of post-separation oil revenues and resources.²⁵⁵ The two parties faced a dilemma. There was in this regard a need to have a new oil deal which was comprehensive, easily verifiable and commercially attractive with a dispute resolution mechanism. The absence of such a mechanism implies that complete negative peace had not been achieved even after South Sudan had separated from Sudan. This position explains the tensions and the threats to a return to war after the referendum.

6.3.3 Security

The basis of the security parameter in Sudan was the security arrangements protocol of the 2005 Sudan CPA (Rogier, 2005:151). The belief was that the protocol was a remedy to the national security problem at the time but required reviewing after the separation of the south. Security after the referendum of the south has mostly concerned provocative activities of the two armed forces of the north and the south and use of militias by both camps as proxies. These developments in the post-referendum era have continued to complicate the relationship of the now separate states of Sudan and South Sudan.²⁵⁶

Regarding the SAF and SPLA provocative activities, in early May 2011, there were clashes between the SAF and the SPLA in Abyei (Young 2012:266). An SAF convoy escorted by the United Nations Mission in Sudan (UNMIS) detail was attacked by the SPLA and resulted in the death of a number of SAF troops. After a day, the SAF and the Misseiria PDF militias attacked Abyei town and subsequently occupied the town

²⁵⁴ Resources are responsible for conflict financing and conflict spoiling basically standing for means to allow belligerents to continue fighting and providing disincentives for peace (Williams, 2011:75). These aspects equate to the North and South Sudan cases in how they view the issue of oil.

²⁵⁵ Interview with Susan Page, 4 October 2013, Bradford-UK

²⁵⁶ Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

after causing enormous damages and displacing some 100,000 people mostly the Ngok Dinkas into South Sudan where many still remain today.²⁵⁷ The presence of the Misseiria in the attack confirms the use of militias by Sudan as proxies. This evidence suggests that CPA had not achieved complete negative peace as even after South Sudan had opted to separate from Sudan, the forces of the two parties still fought each other.

Blanchard (2012:12) states that in response to the violence which resulted in the population displacement and escalating tensions, through vigorous negotiations led by Ethiopia, the UN Security Council passed Resolution (UNSCR) 1990 in June 2011, which authorised a peacekeeping operation called the UN Interim Security Force for Abyei (UNISFA). This peacekeeping force was composed of Ethiopian troops with an aim to separate the two forces and later to monitor the entire north-south border in coordination with Sudan and South Sudan as part of conflict management articulated in chapter 2.

This implies that attitudes and the behaviour of the parties were still hostile and violent and that the conflict had not changed as is advanced in the Galtung's ABC theory. The position in this case is that peacebuilding activities as indicated on the Utstein palette on the security parameter especially on the aspect of security sector reform had not taken root (**see figure 2.3**). Liberal peace could not be attained as is advanced in the Liberal peace theory.

In a different dimension, the SPLM/A members in Southern Kordofan and Blue Nile states (which are in the border areas between Sudan and South Sudan) after the south's vote for separation were left on their own as they were northerners but their local SPLM/A leaders in the areas remained popular.²⁵⁸ In the case of Southern Kordofan, these leaders together with other Northern SPLM/A members formed a new political party which they called the SPLM/A-North (SPLM/A-N). Since the new party in Southern Kordofan had retained the name SPLM/A, SPLM/A and SPLM/A-N became two separate organisations but remained tied by a history.

The Sudanese military demanded that local SPLM/A forces, who had remained stationed in the two states throughout the CPA period (some as part of JIUs), be immediately withdrawn to South Sudan and to be disarmed (Young, 2012:272). The

²⁵⁷ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

²⁵⁸ Interview with Said al Khatib, 27 October 2013, London-UK

SPLM/A-N rejected the Sudan's demand, and when an order was given to forcibly disarm them in June 2011 by the governor of the state, fighting broke out. As soon as the fighting erupted, the SPLM/A in South Sudan continued supporting them and sheltered some of their leaders.²⁵⁹

The SPLM/A in the South Sudan was using the SPLM/A-N as a proxy in their fight against Sudan. Thus, Sudan and South Sudan were at war indirectly. The security aspect of DDR in this context as was stipulated in the CPA security arrangement as part of post-conflict peacebuilding had failed to take effect. Liberal peace as is advanced in the Liberal peace theory in this scenario could not be attained in the two regions as the interim period had not yet expired at the time. This scenario begins to explain the tensions and the threats to a return to war that exist currently between Sudan and South Sudan.

6.3.4 International treaties and legal issues

Treaties form an important part of foreign policies of states as part of the international community and relations. Sudan in this regard had entered into pacts with other states on a variety of matters. After southern Sudan had opted for separation during the referendum, the relations with other countries which were friendly with Sudan and hostile to it had either to be severed, retained or renegotiated. Depending on the issues which were agreed upon, such agreements would be scrapped off (Lunn, 2010:20).

Sudan had either ratified or refused to be party to some treaties in the world and in the context of water specifically from the Nile River had an agreement with Egypt while in the context of the oil resource had business agreements with China, India and Malaysia (Thomas, 2000:24). After the referendum vote, South Sudan had decided to honour and transfer/scrap some of these international agreements which had been reached by Sudan as part of its foreign policy. South Sudan on this aspect had problems with China due to the support it gave north Sudan during the war specifically in the clearing of the local population in the areas where oilfields had to be established and Egypt in the context of the construction of the Jonglei canal.²⁶⁰

²⁵⁹ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

²⁶⁰ Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

The problem in the case of China was that it was a partner in the oil extraction and the pipeline which was transporting oil from the south to the seaport at the Red sea. The south could not sever the relationship with China but simply to renegotiate their relationship. The perception in this case is that there was a need for South Sudan and Sudan to come up with positions through negotiated agreements in order to ensure that the issues in the treaties could not bring their existence to a collision course especially on issues which concerned the lifelines of both parties like it was in the case of China.²⁶¹ Failure to reach agreements on such issues could result in complete negative peace not being realised.

6.4 The post-independence issues

Sudan and South Sudan became separate States after the results of a referendum which had been stipulated in the 2005 CPA. It is contended in the context of the separation that despite their formal separation, the two states remain linked and divided over a range of shared interests and outstanding disputes.²⁶² Thus, apart from the mediation/negotiation process that birthed the CPA, the implementation phase (interim period) and the post-referendum period before the independence of South Sudan which represented the conflict resolution process created outstanding issues which are and have been sources of tensions between the two states (Blanchard, 2012:149-150).

Bercovitch and Jackson (2012:31) as in chapter 2 stresses that conflict resolution/transformation is a process of addressing the underlying sources of conflict between parties. The outstanding issues as offshoots of the CPA process, the outstanding post referendum issues and issues that developed and were still developing after the independence of South Sudan on 9 July 2011, required resolving.

The problem which arose after South Sudan became independent was that the conflict had changed from intrastate to an interstate status. The issues became difficult to resolve as they transformed to foreign policy issues which previously were simply domestic ones. The conflict resolution approach and its methods also

²⁶¹ Interview with Susan Page, 04 October, 2013, South Sudan

²⁶² Interview with Said al Khatib, 27 October, 2013, United Kingdom

required changing in the interest of resolving issues which involve two states and not parties within one polity.

Sudan and South Sudan are viewed as two lungs in one body whereby if one fails then the pressure on the other will be enormous (Copnall, 2015:217). The two Sudans in this regard should resolve the outstanding issues from the CPA process, those that emerged due to the vote to separate during the referendum and those that evolved as a result of independence in order to achieve peace and avoid the scenario as is depicted in the two lungs in the same body scenario. There are many issues on this area but only the critical ones will be dealt with in this section.

6.4.1 Oil and the financial arrangements

Oil has been and is a major factor in the economy of Sudan and presently even for South Sudan after separating from Sudan. The two states to a large extent depend on extractive resources rent which in return qualify them to be labelled as rentier states. Bablayi (1987:85) views exports earned or income derived from a gift of nature as economics rent. One of the causes of the second Sudan civil war was the unequal distribution of resources between the centre and the periphery hence the inclusion of the 50-50% oil revenue sharing in the oil produced in the south in the CPA's wealth sharing arrangement.²⁶³

When South Sudan became independent, Sudan lost 75% of its oil reserves but the south as a land locked country remained reliant on the northern oil industry infrastructure (pipelines, refineries and the seaport) to export its oil (Belloni, 2011:417). This situation meant that South Sudan was and is dependent on Sudan for exporting its oil to the markets. Similarly Sudan was and is dependent to an extent on South Sudan for its economy from the rents which it collects from South Sudan for the use of its oil industry infrastructure. This position implies that the oil industry is a stabilizing factor in the relationship of the two states on which conflict resolution could thrive on but also a trigger for an uneasy relationship of the two states.

²⁶³Interview with Nhial Deng Nhial, 05 July, 2013, South Sudan and Interview with Hilde Johnson, 18 August, 2013. South Sudan.

South Sudan separated from Sudan and became independent before a number of issues had been resolved. Young (2012:138) states that the unresolved oil issue became a major obstacle in the relations between the two states and as such constituted a serious impediment in the fragile peace between them. In October 2011, deliberations on the future management of South Sudan's petroleum sector, including pipeline rental, transit fees, port services, and joint development options took place and were considered pivotal to other negotiations between Juba and Khartoum but no agreement was reached (Blanchard, 2012:8).

Sudan, seeking to offset the loss of its 50% share of the south's oil revenues during the meeting had demanded oil transit and processing fees of \$32-\$36 per barrel. This was against South Sudan's significantly lower counter-offers of under \$1 per barrel which were more in line with international standards for transit fees.²⁶⁴ The two parties were far apart in their negotiations on the oil issue as a post referendum issue and later as a post-independence issue. This status quo is evident as it can be noted that no agreement was reached on the transit and processing fees of the oil per barrel on the part of South Sudan (Copnall, 2015:227-228).

In the period between July and December 2012, Khartoum detained outbound tankers and diverted more than \$800 million worth of oil from South Sudan as it was being exported through the country. Khartoum acknowledged diverting the oil, claimed that South Sudan owed it roughly \$1 billion in unpaid transit fees, a figure which was based on the fee rates it was demanding in the negotiations against a background of South Sudan reporting not having received oil revenues for several months.²⁶⁵ In response South Sudan ordered oil companies inside its borders to shut down the oil production from its oil wells (Jumbert and Rolandsen, 2013:3).

The situation only normalized through negotiation by the AUHIP initially through a meeting by the AUHIP supported by the presidents of Kenya and Ethiopia in January 2012 whereby no deal was reached and later in September 2012, whereby a deal was reached as part of the conflict resolution process using the AUHIP framework.²⁶⁶ Copnall (2015:237) states that the deal set the fees for South Sudan exporting its oil through Sudan at \$11 per a barrel for oil produced in Unity state and \$9.10 per barrel

²⁶⁴ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

²⁶⁵ Interview with Said al Khatib, 27 October 2013, London-UK

²⁶⁶ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

for Upper Nile and in addition South Sudan agreed to pay \$3,028 billion as Transition Financial Assistance (TFA) to compensate Sudan for the economic damage which its separation had caused which was to be paid at \$15 per barrel to act as further incentive for Sudan to allow South Sudan's oil exports to be uninterrupted.²⁶⁷

This situation suggests that the structural and mutual dependency between the two countries related to oil revenues (with South Sudan holding the majority of the oil reserves and Sudan controlling the oil exporting infrastructure) makes oil and the requirement for better financial arrangement between the two states to be major issues in the negotiations of their future relations. The oil factor in this case as can be noted is important to the economies of the two countries. The reaction of the two countries on the issue says a lot about the non-existence of a cordial relationship between them and a pointer to a potential for the countries to go back to war which would directly mean absence of peace between the two parties.

The conduct of the two states on the oil and financial arrangements implies that the attitudes and the behaviour of the parties were still hostile and violent and in that case that the conflict could not be transformed as is advanced in the Galtung's ABC conflict triangle theory. This position implies that negative peace had not been completely achieved by the agreement and in that case explains the tensions and the threats to a return to war between the two states.

6.4.2 Debts and debts relief

Just like on the issue of financial arrangements, the issue of debts and debt relief was problematic in the relationship of the two states. According to Natsios (2012:201), Sudan had borrowed billions of funds to finance the construction of the oil infrastructure (pipelines, refineries and port facilities) and since the south was a beneficiary on its use for the exportation of its oil to the international markets, it wanted South Sudan to assume a portion of the debts. Sudan advanced this demand due to the fact that it had lost most of its oil revenues and was struggling to service the debts.²⁶⁸

²⁶⁷ Interview with Said al Khatib, 27 October 2013, London-UK

²⁶⁸ Interview with Pagan Amum, 05 July, 2013, South Sudan

South Sudan, just like in the post-referendum era objected to the idea of assuming the portion of the debt and based its objection on the fact that the funds had been used to buy weapons to fund the war against it (Copnall, 2014:225). The lines of arguments by both the parties were results of faulty negotiations as certain facts like sharing of revenues other than resources took precedence and the fact that since the two states had been one country at one time, a need to consider use of facilities like the oil industry infrastructure needed to be accorded special consideration as it initially was a strategic asset to the parties before the separation.

The established facts on the debts was that they were accumulated to create irrigation schemes, mechanised farming and Arab breadbasket projects, road construction/rehabilitation, power generation stations in north Sudan as well as public buildings and armament factories.²⁶⁹ The best approach in this case would have been to undertake an audit of the assets and the purposes for which the loans were contracted and come up with a formula of apportioning the debt between the two parties before the separation took place. The positions advanced by the parties against a background of what really took place, was//is a signal enough that the relationship between the two states was/is not sound.

This situation translates that the attitudes and the behaviour of the parties during the mediation and negotiations were hostile and violent and as such the conflict structure could not be changed as is advanced in the Galtung's ABC triangle theory. The failure to address the socio-economic aspect as part of post-conflict peacebuilding implies that Liberal peace as is advanced in the Liberal peace theory could not take root especially on the area of economic interdependence.

Young (2012:185) states that the north not only wanted the South Sudan to pay a price for the independence but also wanted to benefit from the USA and the international community particularly on debt relief either directly from the USA or through US influence at the World Bank or via a group of contributors. Sudan through the same channels wanted the removal of sanctions, the designation of a terrorism sponsoring nation by the USA and as is referred in chapters 3 and 4 through the Security Council have the International Criminal Court's (ICC) charges

²⁶⁹ A visit to Juba says it all about the position of South Sudan on the issue. The country had been independent for two years at the time I visited its capital Juba. To my surprise at this age of modern development few roads have tarmac and likewise infrastructure is still not well developed.

against its president suspended in return for a smooth referendum and later cooperation on all the outstanding issues after the independence of South Sudan.²⁷⁰ These demands by the North were viewed as problematic in the context of conflict resolution.

The international community especially USA and UK found it difficult to assist due to requirements tied to debt relief which included human rights violations and state sponsorship of terrorism issues which at the time Sudan was involved with (Blanchard, 2012:9). The case of the indictment of President Bashir on the Darfur human rights issues as articulated in chapter 4 is a case in point on this. South Sudan viewed the demands as a ransom to be paid for its independence and as a block for any step in the negotiations of the outstanding issues after its independence. Due to the consequent failure by the international community to provide debt relief to Sudan, the country has been forced as a reaction to harden its position in the negotiation of all the other outstanding issues with South Sudan which is seen as a threat to peace between the two states which might eventually force them to return to conflict.²⁷¹

6.4.3 The North-South boundary dispute

The 2005 Sudan CPA between the NCP and SPLM/A used the dividing line which was created by the British as a colonial master as it stood on 1 January 1956 to be the boundary between the two areas/states. According to Copnall (2014:220) at the separation of the two states, there was no agreement over where Sudan began as the border was disputed with several areas being claimed by both parties.

Johnson (2010:15) argues that there is no single authoritative source that states precisely what the boundary was like on that date. **Pp.211-12 and pp.227-28** in this study refers on this issue. Interestingly as referred in chapter 5, the border area is host to a wide range of natural wealth which includes mineral and oil resources, animal biodiversity and a human population that is ethnically divided between Arabs and black Africans.

²⁷⁰Interview with Muriuki, 13 September 2013, Nairobi – Kenya.

²⁷¹Interview with Bona Malwal, 22 October, 2013, Oxford –United Kingdom.

This evidence suggests that greed for the available resources and competing interests of the human population created problems in the border demarcation exercise whose results could have enabled the equitable use and sharing of the available resources in the area. In this regard it is noted that the abundance of resources, cultural practices of the people of the border areas and greed by parties of Sudan and South Sudan create problems in the relationship of the now two separate states.²⁷²

There are a number of areas between Sudan and South Sudan that are either disputed or claimed. According to Copnall (2015:221) disputed areas are those that both sides agreed were in dispute while claimed areas in most cases in the case of Sudan are those where there should be no argument. The problem has been that immediately after the separation of South Sudan from Sudan; Khartoum's position has been to discuss what it views as the disputed areas only and not the others. This explains the origins of some of the tensions and threats to a return to war and the dilemmas that are faced by the two states.

The ideal position in this case is to categorise all such areas as contested. The contested areas in this regard include; the Abyei area, the Malwal-Reizigat boundary between southern Darfur and the northern Bahr al-Ghazal states, Kafia Kingi and Hofrat el-Nahas area of Southern Darfur and Western Bahr al-Ghazal states, the oilfields of Unity and Southern Kordofan states, the mechanised farming areas including the Heglig area along the Upper Nile states, the Chali el-Fil area of Blue Nile state which had been part of Upper Nile until just before independence, and northern boundary line of the Upper Nile states (Johnson, 2010:28) **(see figure 5.2).**

Cheeseman et al. (2015:95 and 178) state that politics of ethnicity is a source of neopatrimonialism which in cases of civil wars retard peaceful resolution of conflict. The border issue is also seen to be a major factor in the Abyei case in the context of the relationship of the two Sudans as a post-independence issue.

6.4.3.1 Abyei

The status of Abyei as articulated earlier still remains as it was after the deployment of the UNISFA by the UN which is a clear translation that the border between Sudan and South Sudan is still a problem between them. The presence of the UNISFA in

²⁷² Interview with Professor Muriuki, 13 September 2013, Nairobi-Kenya

the area to separate the forces and to monitor the border of the two states even after South Sudan became independent suggests that there are still border problems between Sudan and South Sudan which require resolving.²⁷³

There have been a number of attempts to resolve the stalemate on the issue which have not really made any difference. In May 2012, AUHIP called for a referendum in October 2013 in which only the Ngok Dinka and the permanent residents of Abyei could vote.²⁷⁴ South Sudan welcomed the idea but Sudan rejected it. After the failure of the AUHIP initiative, the Ngok Dinka people on 31 October, 2013 held a one-sided vote to decide on the status of Abyei. The local leaders alleged that they held the poll because they were tired of waiting for a long-promised official plebiscite on the ownership of the Abyei area (Copnall, 2015:241).

The vote was rejected by the AU, Sudan and even the South Sudan government, may be conscious that supporting it would simply antagonize Khartoum for little benefit.²⁷⁵ The issue of Abyei and the other border areas is not just economic but patriotism playing a big role. This evidence implies that the attitudes and the behavior of the parties in the conflict are still hostile and violent and as such the conflict between them cannot be transformed as is advanced in the Galtung's ABC theory.

6.4.3.2 The Heglig area conflict

Panthou is a name for *Balanites aegyptiaca* 'trees in Dinka but Heglig in Arabic. The Panthou/Heglig area belongs to the Rueng Dinka and according to historical records changed to a number of administrative areas. **(See table 5.1)**. Up through 2003 it was generally understood that Panthou/Heglig, was part of the Unity State administration in South Sudan, and the NCP appointed governor of Unity State, Dr. Joseph Monytil described it as such in his 2003 annual report (Johnson, 2010:4).

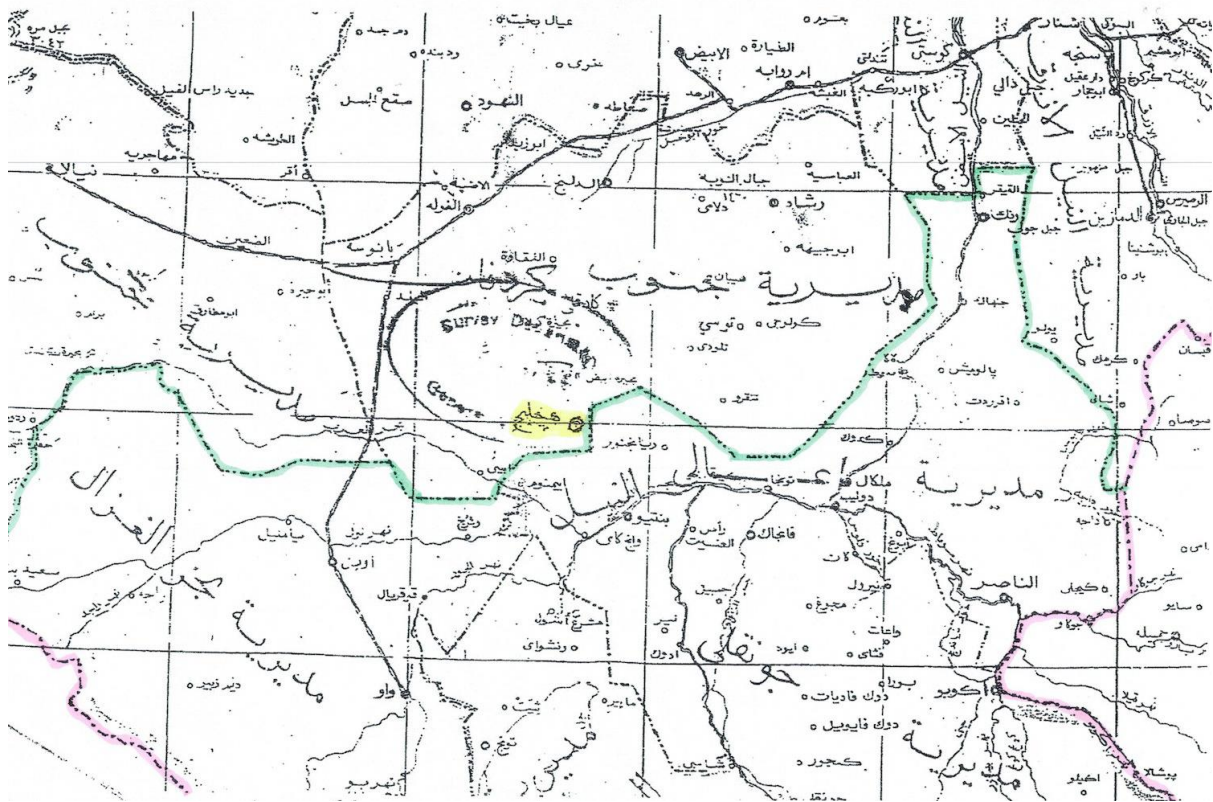
In mid-2004, the Sudan government transferred the area from Unity state to the Western Kordofan state. An accompanying map alleged to have been approved by the National Survey Corporation, for information and correction was included **(see figure 6.1)**.

²⁷³ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

²⁷⁴ Interview with Leben Moro, South Sudan, 5 July 2013, Juba –South Sudan

²⁷⁵ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

Figure 6.1: Map of the Panthou/Heglig area transfer from Unity State in South Sudan to Western Upper Nile state in North Sudan (The 2004 Alinafe Map).



Source: Durham University Archive

The two protocols of the CPA affecting the division of oil revenues – the Wealth Sharing Protocol (7 January 2004), and the Abyei Protocol (26 May 2004) – were signed before the date of the change on 14 June 2004. Placing Heglig in Western Kordofan would therefore have been done in full knowledge that only the revenue from fields within South Sudan would be shared.²⁷⁶ Against this background, South Sudan claims Panthou/Heglig as part of its territory.

On 26 March 2012, as part of the oil focus conflict, the SPLA and Darfuri rebels had skirmishes with SAF troops who were being supported by the SSLA on the Unity and Southern Kordofan border (Young, 2012:361). The SPLA and allies managed to push the SAF troops up to Heglig which is an oil producing area in Sudan but

²⁷⁶ Interview with Muriuki, 13 September 2013, Nairobi – Kenya.

claimed by South Sudan as has earlier been articulated and managed to occupy it but with orders retreated from it.

In response to the actions of the SPLA, on 10 April 2012, Sudanese aircraft and ground troops bombarded the SPLA in their area but the SPLA fought off the attack and chased the SAF troops up to Heglig and seized control of the area.²⁷⁷ The fights by the two armed forces of Sudan and the rebels from each other's side manifested the faces of an interstate war and an intrastate war on both sides. South Sudan only withdrew from Heglig after international pressure on 22 April 2012 but on leaving severely damaged the oilfield's infrastructure (Copnall, 2015:229). Heglig had previously not been claimed by South Sudan in the AUHIP mediation framework.²⁷⁸ This evidence implies that South Sudan used the oil stand off to advance its other territorial claims.

As part of conflict management and peacebuilding, the UN authored Resolution 2046 under Chapter VII, Article 41 and called for a cessation of hostilities and the resumption of the AUHIP led negotiations.²⁷⁹ It can be considered in this context that the border issues were linked to the security issues of the two states which had a link to the unresolved and the untouched issues of the CPA.²⁸⁰ This position implies that the attitudes and the behaviour of the parties in the two states were still hostile and violent and that the conflict structure had not changed as is advanced in the Galtung's ABC conflict triangle theory.

These developments as can be noted are clear indicators that Sudan and South Sudan still have problems with each other and begins to explain the dilemmas being faced by the states and the tension and the threats to a return to war that exist between them. The incident in this case inflamed the tensions and threats to a return to war in the two states and did set back chances of any political agreement.

6.4.4 The Blue Nile state

The Blue Nile State had received special administrative status like Southern Kordofan under the CPA and just like Abyei is resource rich and culturally diverse along the north-south border **(See figure 4.2)**. According to Young (2012:230-231)

²⁷⁷ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

²⁷⁸ Interview with Susan Page, 4 October 2013, Bradford-UK

²⁷⁹ The resolution refers to the imposition of measures which sets out non-military actions such as severance of diplomatic ties or imposition of sanctions.

²⁸⁰ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

as articulated in Chapter 5, many residents of the two states (Blue Nile and Southern Kordofan) driven by their own grievances against the government sided and fought alongside the SPLM/A most specifically due to the attractiveness of Garang's new Sudan vision which portrayed the SPLM/A as a national movement and not merely a Southern Sudan political organisation.

This evidence suggests that the referendum and later the independence of South Sudan made many people of the Blue Nile state just like those of Southern Kordofan to feel abandoned by the SPLM/A. Copnall (2014:143) states that until separation the armed Units in South Kordofan and Blue Nile States comprised the 9th and 10th Battalions of the SPLA and that as Sudanese citizens their place was north of the border but integrating them into SAF which they had fought against would have been politically and militarily hazardous.²⁸¹ It can then be contended in this regard that it would be unrealistic to expect all contacts to be cut after South Sudan had separated.

The security situation in the Blue Nile state initially remained stable after the outbreak of hostilities in Southern Kordofan, but the issue of SPLM/A-N disarmament triggered violence in Blue Nile in early September 2011(Blanchard, 2012:15). It is noted that the situation prompted President Bashir to declare a state of emergency in Blue Nile and dismiss Governor Agar who had been elected to the governorship on an SPLM/A ticket before it separated from Sudan. Agar and Aziz of Southern Kordofan (now all part of the SPLM/A-N), along with several Darfuri rebel groups, subsequently formed the Sudan Revolutionary Front (SRF), with Agar chosen as the alliance's chairman. Its stated aim is to overthrow the NCP and establish a democratic state in Sudan (Blanchard, (2012:16).

The breaking out of war between the SPLM-N and the SAF is indirectly translated as a declaration of war by Sudan on South Sudan since SPLM-N is basically an off shoot of the SPLM/A. The rebels fighting in South Kordofan and Blue Nile were once comrades in arms with the men now in power in South Sudan.²⁸² This position is supported by the fact that Sudanese rebel leaders are regularly seen in Juba and

²⁸¹ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

²⁸² Interview with Abdelwahab EL-Affendi, 14 October, 2013, United Kingdom.

more importantly that the rebel groups have been allowed by South Sudan to use bases in the territory to fight Sudan.²⁸³

Likewise Sudan supports South Sudan's rebels mostly those disgruntled with the latter's politics as its proxies and counterweights in order to keep South Sudan preoccupied with security concerns for an indefinite future and to press for agreement on a range of outstanding issues. The most significant forces currently fighting the south are the South Sudan Liberation Army (SSLA) led by Monytil, a Nuer and the South Sudan Democratic Army (SSDA) led by David Yau Yau a Murle (Copnall, 2015:162-164).

The reason for the SSLA's fighting is stated as to fight the Dinka domination in South Sudan. Monytil is based in Khartoum and his forces operate near the oilfields in Unity state and his attacks are often seen as coordinated with SAF.²⁸⁴ Yau Yau is a Murle who rebelled against the government after the April 2010 elections and has openly been supported by Khartoum in the Jonglei area. Many other groups are also believed to be fighting the GOSS supported by GOS (**See appendix 6**).

The alignment of these groups to Khartoum is attached to the independence of South Sudan based on their grievances with the GOSS although there is also a general feeling that the GOSS has a governance problem specifically due to its being dominated by the Dinka tribe which is believed to agitate other ethnicities to take up arms against it. One of the respondents had this to say; the "rebellions are history repeating itself in Sudan and South Sudan. In 1991, the SPLM experienced a split and the Khartoum government was behind it".²⁸⁵ This scenario suggests that Sudan exploits their grievances in order to settle scores with South Sudan for supporting their rebels.

In the context of the Blue Nile state, one of the respondents had this to say "Khartoum will always be convinced that the emotional ties between the SPLM/A and the SPLM-N are supplemented by military aid and for that reason, the tensions between South Sudan and Sudan will last as long as the wars in South Kordofan and Blue Nile remain unresolved".²⁸⁶ The conflicts in South Kordofan and Blue Nile and

²⁸³ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

²⁸⁴ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

²⁸⁵ Interview with Nhial Deng Nhial, 05 July 2013, South Sudan

²⁸⁶ Interview with a senior SPLM/A negotiator from the Nuba Mountains, 18 October, 2013, United Kingdom.

the formation of the SRF in this case show how Sudan's internal security is still affected by South Sudan.

The fact that Sudan and South Sudan support the other's rebels may explain the tensions and the threats to a return to war that exist between the states. This scenario suggests that the attitudes and the behaviour of the two states have not changed and as such the conflict cannot be transformed to achieve liberal peace as is advanced in the Liberal peace theory specifically in the areas of security, justice and reconciliation and the political framework.

6.5 Mediation and the negotiation of the post-referendum and the post-independence issues

The CPA had sustainable peace, democratic transformation and making unity attractive as its stated objectives with a view to end a civil war that had been going on for a long time between north and south Sudan. The IGAD mediation/negotiation resulted in the CPA although other issues remained either untouched or unresolved (Fick, 2010:1). As the agreement was being implemented, some protocols and issues were left unimplemented and also that in the course of satisfying the agreed milestones (border demarcation, census and elections) other issues cropped up which required resolving before and after the referendum to avoid a return to war in either a united Sudan or the two separated Sudans if the south was going to vote for separation (Young, 2012:138).

The CPA outstanding issues, issues that emerged during interim period, after the referendum and after the independence of South Sudan translates that the NCP and the SPLM/A had and have a laundry list of difficult tasks to accommodate in order to achieve peace and a better relationship without tensions and threats to a return to war (Fick, 2010:1).

The problem at the time was that the parties to the conflict (NCP and SPLM/A) had deep mistrust of each other and as such none among them was prepared to constructively engage the other to negotiate the issues which then meant that the only option was to go through the way of mediation.²⁸⁷

²⁸⁷ Interview with Said al Khatib 27 October, 2013, Sudan Embassy, United Kingdom

Bercovitch and Jackson (2012:37) note that mediation takes place for a number of reasons which include the parties' own conflict management efforts reaching an impasse as was the case in Sudan at the time. Darby and MacGinty (2008:95) as in chapter 2 also confirm that mediation models include the great power, the multi-government and the major international figures or eminent persons' models. The state of affairs after the CPA, was that the outstanding CPA provisions and the issues which had emerged thereafter required to be negotiated on and due to the lack of trust between the concerned parties mediation was to be considered in order to achieve peace.²⁸⁸

6.5.1 The post-referendum and the post-Independence issues mediation and negotiation problems

Mediation as in chapter 2 is a third party intervention approach and one of the conflict resolution approaches methods (Jeong, 2010:172). Darby and MacGinty (2008:96) provide a basis for the selection of mediation models using the premise of external neutrals versus insider partials in the context of finding effective intermediaries.

The mediation/negotiation of the CPA focus was the domestic level while after the south had voted separation and after the independence of South Sudan the focus took an international dimension as north and south Sudan had become two separate countries (Copnall, 2015:226). The mediation/negotiation which was carried out during the CPA process and that carried out after the referendum and the independence of South Sudan was to be different and required a shift in the negotiating frameworks if at all progress and peace were to be realised.²⁸⁹ One of the respondents had this to say; "Our negotiations this time around were designed to be between governments (GOS and the GOSS)"²⁹⁰.

This position suggests that mediation/negotiation and the peacebuilding aspects of the post-Independence issues required careful handling in order to ensure a sound relationship of the two parties/states. It should be noted that before the separation, the SPLM/A representing South Sudan were a rebel movement while the NCP was

²⁸⁸ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

²⁸⁹ The North had lost trust in IGAD and in that regard their engagement in the process would not have been fruitful.

²⁹⁰ Interview with Pagan Amum, 5 July 2013, Juba-South Sudan

the government of the day (Natsios, 2012:215). This status quo translates that the relative strength of the two parties was different at the time and specifically favoured the north. Jumbert and Rolandsen (2013:2) state that the relative strength of the parties in negotiations is decisive for the turn the negotiations take and for the incentives the parties have in order for talks to continue. Likewise realignment of external actors also plays a very crucial part in the mediation/negotiation of issues (Ibid: 2013:3). These aspects put together played out negatively on the mediation/negotiation of the issues at the time.

It can then be argued against this background that the Sudan issue after the referendum whereby the south voted to separate and the post-independence period, ceased to be a civil war and a humanitarian crisis and instead became one of the many uneasy bilateral relations between African states (Young, 2012:361). In essence it can be alleged that any clashes between Sudan and South Sudan was an interstate war and any conflict resolution approach had to reflect an interstate flavour. This scenario translated in the external actors either supporting Sudan or South Sudan depending on their strategic interests which in turn had an implication on the mediation and negotiation of the post-referendum and the post-independence issues.

It should however be noted that the South Sudan is a politically contested space with no unified Southern Sudanese identity. The binding factor seems to be based primarily on the common experience of repression by, and resistance to, the Khartoum regime (Branch & Mampilly, 2004:5). South Sudan in this regard is mired in politically motivated tensions originating from political competition, alliances and inter-personality clashes since April 2010 after the elections.²⁹¹. This implies that although the situation is not much related to North Sudan interference, the insecurity is no doubt a huge distraction to GOSS to deal with its northern neighbour on several issues.

6.5.1.1 The shift from a domestic to an international conflict

The Sudan conflict used the IGAD framework for the mediation and the negotiation of the 2005 CPA led by General Lazarus Sumbeiywo (rtd), the Assessment and Evaluation Commission (AEC) led by Sir Derek Plumbly who was an English career

²⁹¹ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

diplomat and the AUHIP led by the former President of South Africa and two other African states former Presidents for the implementation of the CPA and the mediation/negotiation of the post-referendum and the post-independence issues (Jumbert and Rolandsen, 2013:2).

The dominant mediation model in the north-south Sudan conflict was the multi-government model spruced with the eminent persons/figures model which mostly is a traditional conflict resolution approach which is state centric in its orientation²⁹². This approach is problematic as at most is elitist in nature and does not accommodate other conflict stake holders **(See table 2.2)**.

AUHIP was given preference to mediate the post-referendum and the post-independence issues as an external neutral as opposed to IGAD which had been the power house of the CPA process (Young, 2012:355). The reasons for the AUHIP preference was that IGAD's engagement was regarded as an extension of western countries quest for influence in the region which the AU was not essentially happy with.²⁹³

Young (2012:354-355) on the negative perspective of IGAD by the AU, states that IGAD formation and its engagement in peacemaking came from western donors dominated by the USA and its allies operating through Kenya which has a history of subservience to western interests. This position seem to suggest that IGAD had no capacity to structure the peace process or influence its course or objectives hence not being permitted under the CPA to play a role in the so called post-conflict era. The perspective in this case is that AU had an ambition which was to find African solutions to African problems which then did relegate IGAD as a weak third world agency being used to advance the interest of the USA and its allies. It is however noted that the development may have originated from Sudan as it had a history of changing mediators to satisfy its own interests²⁹⁴.

South Sudan however tended to support IGAD whose members are most directly affected by Sudan's future as opposed to AU which it felt was for pro-unity while on the other hand, NCP had long expressed misgivings about IGAD as it thought that its powerful members were/are supportive of the South and in that case did not see it as

²⁹² Interview with Douglas Johnson, 27 November 2013, Oxford-UK

²⁹³ Interview with a senior NCP negotiator, 10 October, 2013, United Kingdom

²⁹⁴ Interview with Adams Oloo, 12 September 2013, Nairobi- Kenya

a forum that would secure its interest.²⁹⁵ The truth of the matter in this regard however is that IGAD was suitable for dealing with an intrastate conflict while AUHIP was suitable for an interstate conflict.

The pulling and pushing on the issue of the frameworks, affected the progress of the mediation/negotiation of the post-referendum and the post-independence issues which could have assisted to achieve peace between Sudan and South Sudan. The best option was for the two bodies (IGAD and AUHIP) to work together with an understanding that the weight of the AU was important for the separated Sudans and that the ultimate backing of the regional body was/is crucial if an independent South Sudan was to secure maximum legitimacy.²⁹⁶

The choice of an appropriate framework in this regard for the post-referendum and the post-independence mediation and negotiation framework was a dilemma that the parties faced which to an extent explains the tensions and the threats to a return to a war at the time.

6.5.1.2 Relative strength of the two parties

The relative strength of parties plays an important part in the mediation/negotiation process of any conflict and this was no different in the context of the Sudan conflict on the post-referendum and the post-independence issues. Before 2005, the incentives for pursuing the CPA talks were the prospects of ending the civil war and the ensuing peace dividends including the promise of the sanctions on Sudan versus the threat of a more confrontational relationship with the USA (Jumbert and Rolandsen, 2013:558).

Considering the post-referendum and the post-independence issues, the question is 'what is the incentive for the mediation/negotiation of the current issues?' After the referendum and the independence of South Sudan, the aspects of the military balance, cohesion, economy and international support played a huge part in the mediation/negotiation of the issues that emerged from the stated events which were

²⁹⁵ Waihenya (2006:15) states that Sudan was in the habit of always wanting to change mediators and offers a case at one point whereby during a meeting in Mozambique did advance a request to South Africa to try to take over the CPA process from IGAD which was being led by Kenya at the time. It may then be argued that Sudan is always a suspicious bride when it comes to issues of mediators.

²⁹⁶ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom.

also important for the relationship and achievement of peace between the two parties/states.²⁹⁷

The gap between the armies of the two parties in the context of the military balance has been narrowed so that a full military confrontation by any one of them would be costly and the outcome very unpredictable as each has now been reasonably armed (Copnall, 2015:215. Lack of cohesion is noted to be persistent in both states in that each one of them is threatened by domestic and political opposition so that as a result proxy warfare and support to the other party's internal opposition emerge as the main tool of intervention in the other.²⁹⁸

Likewise on the economic aspect, the oil revenues from the oil resource whose production and transportation requires joint responsibility by the two parties/states fuel their economies and various political patronage mechanisms translating that the economic interests of the two parties are intertwined in that neither of them can afford to be without the oil for any short period of time.²⁹⁹ Regarding the international support, due to strategic reasons (South Sudan's control over oil production and Sudan as a long-time ally of some of the external actors) the two parties/states find willing partners to align with which in turn strengthens their sovereignty and the bargaining powers on the international scene which in effect creates problems in the event of embarking on mediation/negotiation (Belloni, 2011: 417-418).

This position implies that South Sudan's separation brought it more at par with Sudan both militarily and economically and that due to the status quo, positions on issues during mediation/negotiation processes are usually difficult to dislodge.³⁰⁰ The relationship of Sudan and South Sudan remains precarious up to now which in terms of conflict resolution is a problem.

The positions of parties in such forums translates that the attitudes and the behaviour of the parties have not changed and as such the conflict structure cannot be transformed as is advanced in the Galtung's ABC theory. A respondent had this to say on this position; whenever a Sudanese or a South Sudanese politician wants to advance a point about the other camp preface the statement with our brothers and

²⁹⁷ Interview with Adams Oloo, 12 September, 2013, Nairobi- Kenya

²⁹⁸ Interview with Susan Page, 04 October 2013, South Sudan

²⁹⁹ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

³⁰⁰ Interview with Leben Moro, 05 Julyr, 2013, Juba – South Sudan

goes on to accuse them mostly on their negative sides³⁰¹. This evidence explains the tensions and the threats to a return to war which exist between the two states and why complete negative peace has not been achieved between them.

6.5.1.3 Realignment of the external actors

The mediation/negotiation process as part of conflict resolution hinges on the influence of external actors if the conflicting parties lack trust in each other. For Sudan and South Sudan, the formation of IGAD and the AUHIP provide the cases in point (Young, 2012:182&355). The independence of South Sudan strengthened its position internationally but also caused the importance of the international relations with Sudan to be downgraded by most of the external actors. External actors either aligned with South Sudan or Sudan but in the case of some of Sudan's strongest supporters depending on their strategic interests were forced to balance their patronage between the two states and that the shift from the CPA framework to that of AUHIP is symptomatic of the realignment factor.³⁰²

The hard line positions of Sudan and South Sudan as separate states on most of the post-referendum and the post-independence issues may actually be as a result of the developments. Through such instances, the atmosphere for mediation/negotiation was/is poisoned which in turn leads to tensions or threats to a return to conflict.³⁰³ The positions of the parties in conflict resolution, suggest that the attributes of the liberal peace theory, democracy, economic interdependence and the international law and its institutions may not have been institutionalised as is advanced in the Liberal peace theory. The resulting tensions and threats to a return to war may be explained due to this position.

6.5.2 The IGAD and the AUHIP conflict resolution frameworks

Conflict resolution is basically about accepting a conflict, recognising that there are ways out of it and engaging in some tacit or explicit coordination. Mediation, negotiation and peacebuilding are some of the conflict resolution approaches methods which are used to resolve conflicts but require aligning to particular established frameworks in order for them to be effective. IGAD, a sub-regional

³⁰¹ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

³⁰² Interview with Susan Page, 04 October, 2013, South Sudan

³⁰³ Interview with Hilde Johnson, 22 August 2013, Juba-South Sudan

organisation supported by the Troika countries (USA, UK and Norway) provided a framework for the CPA mediation and negotiation processes while AUHIP provided the framework for the mediation and the negotiation of the post-referendum and the post-independence issues in regards to the relations of Sudan and South Sudan initially as one state and later as separate states (Jumbert and Rolandsen, 2013:2).

The change of the mediation/negotiation frameworks created problems between their patrons and later the mediation/negotiation processes themselves with the aspects of continuity and procedures being the sticking problems.³⁰⁴ When South Sudan had not separated from Sudan, the conflict was an intrastate war while after it separated from Sudan, the status of conflict became interstate. Richmond (2002:9) articulates the differences in the conflict resolution approaches and methods of interstate and intrastate conflicts. An appropriate conflict resolution approach should aim at transforming a conflict in order to achieve negative peace and positive peace.

6.5.2.1 The IGAD framework

The IGAD framework through its mediation/negotiation resulted in the 2005 Sudan CPA which was a set of agreements signed after a period of over two years. Mediation/negotiation of the CPA was problematic as discussed in chapter 5. Sulaimana and Ifeanyi Chuckwu (2013:150) state that the IGAD mediation/negotiation of the CPA was based on a narrow model as it had focused only on ending the violence (extended ceasefire) instead of laying the basis of a sustainable and comprehensive peace in southern Sudan and the whole country. On the same, it is noted that the CPA did not include the IGAD in its implementation as it was given to the Assessment and Evaluation Commission (AEC) and similarly in the cases of the post-referendum and post-independence issues which were left in the hands of the AUHIP.³⁰⁵

This background suggests that the implementation of the agreement may have had problems due to the changes on the frameworks. A respondent had this to say; “IGAD birthed the CPA but was never there for the census and the elections. It is IGAD that had knowledge of most of the details which Taha and Garang had agreed

³⁰⁴ Interview with Douglas Johnson, 27 November 2013, Oxford-UK

³⁰⁵ Interview with Hilde Johnson, 18 August, 2013. South Sudan

on. Their absence affected the whole purpose of the process”³⁰⁶. This position suggests that the parties viewed the absence of IGAD in the interim period as a factor which affected some of the things that went wrong during the period.

Failure for some activities to take place was viewed to have been due to the absence of an active role of the IGAD mostly in the eyes of South Sudan. It is argued in this case that, peacebuilding activities in the areas of the political framework, security and justice and reconciliation which could have assisted to achieve liberal peace as is advanced in the Liberal peace theory were not carried out properly due to lack of proper oversight.

6.5.2.2 The AUHIP framework

AUHIP was created in 2009 following the African Union Peace and Security Council (PSC) adoption of the report from the African Union High Level Panel for Darfur chaired by the former President of South Africa, Thabo Mbeki, the former Burundian President Pierre Buyoya and the former President of Nigeria Abdulsalamu Abubakaer (Peace and Security Council meeting report, 2010:1). The mandate included facilitation of the CPA and the Darfur Peace Agreement (DPA) which in turn included supporting the preparations of the April 2010 Sudan general elections, preparations for the South Sudan referendum in January 2011 and facilitating the post-referendum and the post-independence mediation/negotiations.

It is however argued in this regard that despite taking over the mediation/negotiation task, the AU had not played a significant role in the multifarious processes that led to the CPA outcome and thus was queried on the aspects of continuity and institutional memory regarding the basis of the conflict issues. General Sumbeiywo noted that: “the change from the IGAD framework to AUHIP was a big mistake in the history of mediation and negotiation”.³⁰⁷ The AUHIP activities in the course of attempts to come up with a framework agreement made the parties (Sudan and South Sudan) to sign a memorandum of understanding (MOU) at Mekelle in Ethiopia with a view to commit them to the discussions of the post referendum and later the post-independence issues.

³⁰⁶ Interview with Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom

³⁰⁷ Interview with General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

According to Bercorvitch and Jackson (2012:30) participation and the modality aspects are key in any conflict resolution endeavour. The parties involved with the Mekelle MOU and the framework agreement just like the IGAD framework scenario only included the SPLM/A and the NCP and that while the SPLM/A had committed a fixed team, the NCP did not but only had a fixed leader³⁰⁸. It is alleged against this background that issues were difficult to be agreed on due to the changes of the personnel specifically on the Sudan's part.

The NCP by not designating a fixed team for the negotiations gave out an indication of a lack of seriousness on their part and denying the whole process an opportunity to make progress towards peace and a sound relationship with South Sudan which could have assisted to completely resolve the conflict and achieve peace. Due to the lapses in the negotiations of the post-referendum and the post-independence issues, the concerned parties could not forge a healthy relationship either in a united Sudan or the separated two Sudans. The failure to make progress on the issues implies that the attitudes and the behaviour of the parties were still violent and the conflict structure not being changed as is advanced in the Galtung's ABC conflict triangle theory. Thus, complete negative peace could not be achieved and likewise Liberal peace as is advanced in the Liberal peace theory as peacebuilding activities in the areas of socio-economic and political governance were/are retarded.

6.6 Conclusion

Conflicts are usually difficult situations to resolve and terminate. Resolving them requires unique skills and the use of appropriate conflict resolution approaches and methods. The South Sudan referendum results changed the status of the relationship of north Sudan and south Sudan from a domestic to an interstate status. Likewise the failure of the Abyei referendum created problems in the relationship of the two states and the chances of successful conflict resolution. This created a dilemma to the two states and explains the reasons for the existence of tensions and threats to a return to war.

³⁰⁸ The SPLM team included: GoSS Minister for CPA Implementation Pagan Amum, GoSS Minister for SPLA Affairs Nhial Deng, GoSS Minister for Regional Cooperation Deng Alor, GoSS Minister of Legal Affairs and Constitutional Development John Luk, GoSS Minister for Cabinet Affairs Kosti Manibe, and GoSS Minister for Irrigation and Water Resources Paul Mayom. The NCP was being led by Idriss Abdel-Gadir and the members kept changing.

The clashes of the SAF and the SPLA in Abyei in May 2011 which eventually ended with SAF occupying the area and displacing many Ngok Dinkas into South Sudan before the independence of South Sudan poisoned the environment for the resolution of the post-referendum issues in the areas of citizenship, security, economics and the international treaties and legal issues. The Abyei issue is a dilemma that Sudan and South Sudan faced and continue to face if not resolved as it also involves the aspect of border demarcation between the two states.

Despite the CPA as the settlement of the conflict, complete negative peace was not achieved and likewise due to a troubled implementation of the agreement, liberal peace as advanced in the Liberal peace theory could not be achieved. The creation of the SPLM-N in Southern Kordofan is a problem which was birthed during the CPA mediation and negotiation process and poor conflict management by the Khartoum government. The Nuba Mountains will be a problem that Sudan will have to prepare to live with for a time.

The detention of oil tankers and diversion of oil worth millions of Dollars for South Sudan by Sudan for the non-payment of the services provided for the transportation of the oil triggered the oil production shutdown by South Sudan in January 2012. The shutdown created economic problems in both the two countries. This position suggests that the two countries are linked in their economic survival and as such require resolving their conflict in the interest of their economic survival.

The seizure of the Heglig area in March and April in 2012, the failure of the Abyei peace initiatives and the eruption of conflict in the Blue Nile state suggest a lack of understanding by both Sudan and South Sudan that they are separate states and as such require looking at issues at an interstate level. Developments in these areas result in the two states facing a number of dilemmas which eventually have been the sources of tensions and threats to a return to war. Heglig opened a new chapter of border claims by South Sudan and on the same Heglig and the Blue Nile state present a security challenge which gives a dimension of the use of proxies by Sudan and South Sudan. The aspect presents the intrastate and the interstate image of the conflict which complicates a simple application of the conflict resolution approaches and methods. This posed dilemmas to the two states and explains the origins of some of the tensions and the threats to a return to war.

Mediation and negotiation in the conflict of the two Sudans have been complicated by a background of the change of the conflict from a domestic to an international status, relative strength of the two states as a result of their economies and technological advancement and the realignment of the external actors. This is in addition to the outstanding issues of the CPA mediation and negotiation processes, the unimplemented protocols provisions and problems which emerged in preparation for the referendum.

The IGAD and the AUHIP conflict resolution frameworks have been problematic in the resolution of the conflict due to a misunderstanding of the status of the two bodies and the management of the transition from the IGAD to the AUHIP framework. IGAD as a sub-regional organisation was best suited for an intrastate conflict while AUHIP as a regional organisation is best suited for the interstate conflict. It is, however, important for the organisations to harmonise their efforts in order to achieve complete negative peace and positive peace in the two Sudans other than engaging in blame games.

The problems of the previous processes before the referendum, the referendum of South Sudan and the Abyei referendum failure provided the basis of the origins of the post-referendum and the post-independence issues which are responsible for the dilemmas faced by the two states and eventually the tensions and the threats to a return to war. The referendum, post-referendum and later the post-independence issues lie at the heart of the difficulties of the conflict resolution process and the relationship problem of Sudan and South Sudan.

The chapter captured the referendum, the post-referendum issues, the post-independence issues, mediation and negotiation efforts and the IGAD and the AUHIP conflict resolution frameworks. The next chapter will discuss the conclusion of the thesis.

Chapter 7

7.0 Conclusion

7.1 Introduction

The study investigates why there has been continuing tensions and threats to a return to war between Sudan and South Sudan since the CPA and even after the independence of South Sudan as its central research question.

Secondary research questions which are: what were the causes of the Sudan-southern Sudan conflict?; what factors influenced the conflict parties in Sudan and southern Sudan to engage in negotiation to arrive at the 2005 CPA?; how were the mediation and the negotiation for the 2005 CPA of Sudan conducted to resolve the conflict and achieve peace?; why was the right to self-determination for southern Sudan included as part of one of the CPA protocols despite its being viewed with ambivalence in the international community?; why was the 2005 Sudan CPA and some of its protocols problematic in the context of conflict resolution?; why did some of the protocols remain unimplemented up until the end of the interim period of the CPA and what were the implications of this after South Sudan opted to separate from the Sudan through a referendum? and what issues had emerged after the referendum and independence of South Sudan and why have they been difficult to resolve? are used to support answering the central question in the study. This is done by using the lens of the CPA as the settlement and how it was implemented by the conflicting parties as a way to achieve peace.

The CPA was arrived at through processes of mediation and negotiation brokered by the IGAD led by Kenya and supported by the Troika countries (USA, UK, Norway and Italy) and later during the interim period, the solutions arrived at were to be attained through an implementation phase as part of the post-conflict peacebuilding process (Young, 2012:79). The mediation, negotiation and peacebuilding aspects can be perceived to have been parts of a conflict resolution process which aimed at completely resolving the conflict. Conflict resolution/transformation is perceived as a range of formal and informal activities undertaken by parties to a conflict or outsiders designed to limit and reduce the level of violence in conflict and to achieve some understanding on the key issues in conflict on future interactions and distribution of resources (Bercovitch and Jackson (2012:1).

This position suggests that the architects of the CPA had a strong desire to have the deep rooted sources of the conflict to be addressed and transformed whereby the behaviour would no longer be violent, attitudes no longer hostile and the conflict structure changing in order to achieve peace.

The study covered; the historical perspective, the analysis of the CPA in the context of conflict resolution, the implications of the mediation, negotiation and the implementation processes of the CPA and the referendum, post-referendum, post-independence issues and the conflict resolution efforts. Methods used to obtain the data were interviews with key informants and archival records as primary sources and literature review on the part of secondary sources. All these aspects were covered in order to answer the central research question and its related secondary research questions as outlined above.

This chapter summarises the findings in relation to the research questions; the theoretical consequences; comparative considerations and the suggested further research in the area.

7.2 Summary of the findings in relation to the research questions

This study concludes that reasons for the tensions and threats for a return to war between Sudan and South Sudan initially as one country and later as two separate states generally originated from a troubled political history of the country whereby South Sudan was always marginalised and viewed as separate from what was deemed to be the pure Sudan. In this regard the historical/colonial legacy, post-independence regimes (Military and parliamentary), the international, regional and sub regional factors, experiences from the previous efforts to settle/resolve the conflict lie at the heart of the causes of the Sudan conflict.

It is also perceived that the presence and the discovery of resources in southern Sudan (now South Sudan) and in the border areas of Sudan and South Sudan and the cultural practices of the trans-border population exacerbated the conflict at the time and currently are also responsible for some of the dilemmas faced /facing the two states and lead to tensions and threats to a return to war.

Likewise the mediation, negotiation, the content of the CPA, the implementation of the CPA and the referendum which eventually gave birth to the post-referendum and the post-independence issues are also viewed as additional basis of the conflict between Sudan and South Sudan. These factors brought about dynamics which kept and up to now keeps animosity between the once two areas of one state and now the two separate states. Below are the highlights of the findings.

7.2.1 The causes of the conflict

Sudan has never really had peace throughout its history of existence. This is evident from the number of leadership eras which it went through and the violence that each unleashed on the people of South Sudan. The Turkiyya, the Mahdiya and the Anglo-Egyptian condominium eras all came into their existence through conquests and each one of them left a legacy of its own on how it related with the country's subjects in the areas of religion, trade and politics (Collins, 2008:10, 21 &33).

Sudan victimized southern Sudan by enslaving people and exploiting resources. The Sudanese state has/had many ethnicities and nationalities. The interactions in the areas of religion, trade and later politics appear to have created a culture of hostility between the people of northern Sudan and southern Sudan. Despite this recognition, the two areas were made to be united without a consensus on the part of the southerners as the country became independent in 1956.

Independent Sudan was no different from its past as it went through three parliamentary regimes and three military regimes all which through a search for a national identity had problems with southern Sudan. The clash on the appropriate nomenclature of national identity by the two areas, whereby the north wanted an Arab-Islamic one while the south wanted it to be African resulted into an intractable conflict which became difficult to resolve as manifested through the first civil war of 1955 -1972 and the second one of 1983-2005 (Iyob and Khadiagala, 2006:167).

The cleavage between Sudan and South Sudan is an outcome of a historical process characterised by stratification and the grading of races, ethnicities, cultures and religions in favour of Arabism and Islam and the marginalisation of the south in terms of development and resources distribution. The national identity question was a dilemma which Sudan faced and eventually created challenges to the 2005 CPA.

Sudan was a state in a flux since it came into being. Politicization of the military and the militarisation of politics, the politics of running religion and the state together and failure to read into the history of the country led many to believe that the country could only be at peace if the south could be given a right to self-determination practiced either internally (unity) or externally (separation). The SPLA presented itself as a socialist movement that did not only intend to 'liberate' the southerners but the whole Sudan through its New Sudan vision concept. Although this was the case, as much as the SPLM/A presented itself as a national organisation, it remained at heart a southern movement with a very strong separatist sentiment.

The origin of the conflict lay largely initially with a historical legacy and later the post-independence civilian and military regimes aligned with a colonial policy that concentrated economic, political, and administrative development in north Sudan that is in cultural and religious issues and competition for political dominance, later perpetuated by oil resources. All these developments were absent in the south and thus provides the evidence of its marginalisation by the GOS.

The issues under the causes of the conflict can then be perceived under the common denominators of colonialism and colonial legacy, governance, socio-economy, cultural and ideological factors which in essence can be viewed to have presented dilemmas to both Sudan and South Sudan in terms of their relationship initially as one country and later as two separate states. The status quo at the time suggests that the attitudes and the behaviour of the northerners and the southerners were hostile and violent and the structure of the conflict could not be changed as is advanced in the Galtung's ABC conflict triangle theory in order to resolve or transform the conflict between them.

7.2.2 The mediation and the negotiation of the CPA

The CPA was a by-product of mediation and negotiation processes. Both parties (Sudan and southern Sudan) had their own interests for accepting the mediation/negotiation process concerning their conflict. These ranged from security, emancipation from hard economic problems due to the war, beating regional isolation, battle losses and dilemmas although it appeared like the parties were not fully committed to the process. These inter-related issues and positions tended to give doubts on the seriousness of the whole peace process.

The frameworks for the mediation/negotiations to take place, contradicted each other in that one was broad based and the other narrow based (DOPs and the Machakos protocol) which in turn made the comprehensiveness of the agreement to be questionable. The DOPs were broader in that they covered measures to resolve the conflict in the whole country while the Machakos protocol only focused on addressing the conflict between GOS and southern Sudan (Young, 2012:95).

IGAD as a sub-regional body although suited for resolving intrastate conflict/s, used a traditional/first generation state-centric conflict resolution approach (the track I diplomacy approach) which generally is an elite approach whereby other important and interested parties like the civil society, other political parties and other armed groups in the conflict could not be allowed to take part. The approach does not allow inclusivity in terms of participation of the interested parties who represent the grassroots who can broaden and bring about pertinent issues which can assist to resolve a conflict. Thus, the agreement was narrow focused and did not conform to the required conflict resolution approach in an intra-state conflict.

The perception is that during the mediation and negotiation processes, some issues were not resolved while some were not even touched. Even though the agreement was designated as comprehensive, in the absence of the issues which were either unresolved or untouched, it could not qualify to be comprehensive. The manner, in which the agreement was negotiated in Naivasha, where only Osman Taha representing the GOS and John Garang representing the south were involved, leaves the community of scholars in the discipline of conflict resolution to question the depth of the negotiations of the whole agreement. They could not on their own broadly cover the issues at stake without the participation of other important actors in the conflict.

The protocols which were the outcomes of the negotiations in this regard are viewed to have been inadequate as they missed out in addressing some of the core concerns while others viewed with ambivalence internationally were taken on board. The issues of identity (religion and language), definition of the area that is South Sudan and the right to self-determination are cases in point in this regard (Simmons and Dixon, 2006:87).

It noted that the mediation and the negotiation processes never included other political parties, never solved conflicts elsewhere in Sudan or democratisation and economic development in the country and the peacebuilding part (which appeared mostly as part of the post-conflict reconstruction not including other important aspects like justice and reconciliation). Likewise on the same, the content of the agreement missed out on some important elements. This position suggests that the agreement was not comprehensive but more appropriately termed as incomprehensive.³⁰⁹

The attitudes and the behaviour of the parties remained hostile and violent rendering the conflict structure unchanged. Hence the Galtung's ABC conflict triangle theory could not take root. Likewise due to this status quo, peacebuilding activities vital for the attainment of liberal peace as espoused in the Liberal peace theory could not be properly undertaken.

7.2.3 The implications of the mediation/negotiation and the implementation processes of the CPA

The implications of the mediation/negotiation and later the implementation processes of the agreement were that other issues remained unresolved, others untouched, some of the protocols and provisions selectively implemented and other issues emerging during the interim period from the activities (border demarcation, census and elections) that had been lined up to take place before the referendum of southern Sudan.

This implies that there were outstanding issues from the mediation and the negotiation processes and later the implementation process. It can be noted in this regard that this posed a challenge to the agreement and likewise presented dilemmas to the parties in the conflict which led to the emergence of the tensions and the threats to a return to war between the parties then and even now.

The perception in this context is that the issues as articulated above undermined the well intentioned process of conflict resolution of the GOS-southern Sudan conflict. Failure of such an aspiration made unity not to be attractive as had been planned and expected according to the CPA and eventually lead the south to separate from the North. This certainly challenged the CPA which had emphasised to make unity

³⁰⁹ Interview with EL-Affendi, 14 October 2013, United Kingdom

attractive especially to the southerners which in turn made the parties to be in a dilemma as to how best they could relate with each other in the circumstances that had developed.

This position suggests that the outstanding issues which developed from the articulated circumstances provided the basis of the post-referendum and the post-independence issues of the two Sudans. The fact that southern Sudan was heading towards an important referendum vote whereby its people were to vote either for unity or separation as options of the right to self-determination as was given as a solution in the Machakos protocol and considering the developments of the relationship between the two areas during the interim period, there was a need to resolve all the outstanding issues which had developed with a view to have the attitudes of the of the parties not to be hostile and the behaviour not to be violent and the conflict structure to be changed as is advanced in the Galtung's ABC conflict triangle theory. It is noted however that this was not achieved.

This implies that the conflict had not been transformed and as such post-conflict peacebuilding activities in the areas of security, politics, reconciliation and justice and socio-economic parameters could not take place effectively. This position suggests that the parties faced dilemmas which in the process created tensions and threats to a return to war.

7.2.4 The referendum, post-referendum and the post-independence issues and the frameworks of conflict resolution

The southern Sudan referendum results whereby the south opted to separate in the determination of the right to self-determination changed the status of the relationship of the GOS and south Sudan that is from a domestic to an interstate status as the two regions were to become two separate states. The failure of the Abyei referendum created problems in the relationship of the two states and the chances of successful conflict resolution. This created a dilemma to the two states and explains some of the reasons for the existence of tensions and threats to a return to war and the challenges the CPA encountered.

The GOS attack on Abyei before and after the referendum, the subsequent occupation of Abyei leading to the deployment of a peacekeeping force and the eruption of conflict in Southern Kordofan as a proxy for South Sudan challenged the

agreement and posed dilemmas to the two parties on their relationship in the post referendum period. These referendum and post-referendum issues emerged against a background of not being anticipated during the mediation/negotiation of the CPA, no opportunity being given to renegotiate the agreement, the lack of trust between the parties and principally the issue of the oil resource which drives the economies of the two states but which was not adequately dealt within the 2005 CPA. Failure to resolve properly the issues of citizenship, security and the economy was problematic for conflict resolution during this period. The developments in the post-referendum period challenged the CPA and created dilemmas for the parties. Complete negative peace had not been achieved and likewise post-conflict peacebuilding in the areas of security, political governance and the socio-economic factors failed to take root.

The detention of oil tankers and diversion of oil worth millions of Dollars for South Sudan by the GOS leading to the shutdown of the oil production in January 2012, the seizure of the Heglig area in March and April in 2012 by South Sudan, the failure of the Abyei peace initiatives in 2013 and the eruption of conflict in the Blue Nile state degraded the spirit of conflict resolution in the post-independence era of South Sudan. These developments presented the intrastate and the interstate images of the conflict which complicates a simple application of the conflict resolution approaches and methods. These incidents posed dilemmas to the two states and explain the origins of some of the tensions and the threats to a return to war existing between the two states in the post-independence era of South Sudan. The attitudes and the behaviour of the parties were still hostile and violent and that the conflict structure had not changed as is advanced in the Galtung's ABC conflict triangle theory. Thus, sustainable peace could not be attained.

The mediation and the negotiation in the conflict of the two Sudans after the referendum have been made complicated by a background of the change of the conflict from a domestic to an international status, relative strength of the two states as a result of their economies and technological advancement and the realignment of the external actors. These factors challenge the CPA and present the two states with dilemmas which have resulted into tensions and threats to a return to war.

The IGAD and the AUHIP conflict resolution frameworks had been problematic in the resolution of the conflict especially in the context of how the transition was managed from one framework to the other. This status quo had created confusion between the two bodies which may have resulted from inadequate diplomatic activity. IGAD as a sub-regional organisation was best suited for an intrastate conflict while AUHIP as a regional organisation is best suited for the interstate conflict. It is important for them to harmonise their efforts since the conflict now wears both the intrastate and the interstate hats.

The problems of the previous processes before the referendum, the referendum of South Sudan and the Abyei referendum failure provided the basis of the origins of the post-referendum and the post-independence issues which are responsible for the dilemmas faced by the now two states and eventually the tensions and the threats to a return to war. The referendum, post-referendum and later the post-independence issues lie at the heart of the difficulties of the conflict resolution process and the relationship problem of Sudan and South Sudan.

7.3 Theoretical consequences

The study focuses on the CPA as conflict settlement within the conflict resolution process (**See figure 2.3**). The CPA is a bundle of six protocols and two annexures which was achieved through mediation and negotiation as methods of the conflict resolution approaches in order to end the conflict and through further initiatives and approaches to eventually resolve it. Wallensteen (2007:75) as articulated in chapter 2 refers to agreements as signed treaties that regulate (resolve or find a process for) incompatibilities concluded between the warring parties and put an end to conflict behaviour. The perception in this context is that the agreements indicate what has been agreed, halt the fighting and what accordingly is likely to happen thereafter to completely resolve conflict/s and bring peace.

The Galtung's ABC conflict triangle theory and the Liberal peace theory are used in this case as models to guide the study on particular aspects of conflict and how the particular areas can assist to resolve/transform a conflict in order to achieve peace. This status quo suggests that the theories in this study are used to establish if they are suitable for purpose in relation to the findings of the study.

Galtung's ABC theory posits conflict to be viewed as a triangle with contradiction (C), attitude (A) and behaviour (B) at its vertices (Galtung, 1996:72). **(See figure 1.3).** The triangle is based on the premise that conflicts have three major components which are the contradiction or the situation, the behaviour of those involved and their attitudes (Galtung, 1996:96). In order for the conflict to be resolved, a set of dynamic changes need to take place that can mean de-escalation of the conflict behaviour, a change in attitudes and a transformation of the relationships or clashing interests which are at the centre of the conflict structure (contradictions) (Galtung, 1996:97). Such a dynamic can only be attained through the use of the conflict resolution methods like negotiation, mediation and peacebuilding among others. This translates that if a conflict has to be resolved behaviour has to no longer be violent, attitudes no longer to be hostile and the structure of the conflict to be changed.

This status quo implies that the Galtung's ABC conflict triangle theory, generally targets at making an attempt to ensure that a conflict becomes resolved/transformed. It is noted that the extent of any agreement is important particularly in terms of the degree to which it deals with the constitutional, territorial and security issues that lie at the core of a conflict otherwise it can merely be concerned with the manifestations of the conflict (Darby and Mac Ginty, 2008: 199).

The CPA had these aspects within it although it did not achieve complete negative peace which could have assisted the achievement of positive peace. The mediation and the negotiation frameworks, the CPA protocols and the post-referendum and the post-independence issues provide examples of the Galtung's ABC conflict triangle model aspects which either took root or not. This is evident in the findings of the study that despite the tensions and threats to a return to war between the conflict parties, some form of peace was realised through the CPA as a settlement. Thus, the Galtung's ABC conflict triangle theory in relation to the findings is good in the context of conflict resolution.

The implementation part of the agreement during the interim period was anticipated that through the peacebuilding activities would assist the country or later the two countries to achieve the status espoused in the Liberal peace theory with its related thesis that democratic forms of governments tend to be more peaceful, both in their

domestic affairs and in their international relations, than illiberal states” (Newman, Paris and Richmond 2009: 11).

Peacebuilding as a method of conflict resolution is generically understood as external interventions that are intended to reduce the risk of a state to erupt into or return to war **(see figure 2.3)**. Sriram (2000:21) states that the presumption is usually that the ideal outcome of peacebuilding as a conflict resolution method after armed conflict is a liberal capitalist state. Liberal peace theory generally derives from the concept of liberalism in international relations and includes democracy, economic interdependence, and international institutions and international law as its most important pillars for a model peaceful state. MacGinty, (2010:393) in this regard states that Liberal peace is taken to mean the dominant form of internationally supported peacemaking and peacebuilding that is promoted by leading states, leading international organizations and international financial institutions.

The reason for the use of the theory in this study was that through the activities of peacebuilding (post-war reconstruction, rehabilitation and reconciliation; creation of security related, political and socio-economic mechanisms and foreign intervention), Sudan would become a liberal state which would be democratic, a free market economy which respects individual rights and the rule of law based on the western liberal culture.

Some of the aspects in the theory took root whilst others did not. It is noted in this regard that the theory does not deal with some stages of conflict and that it is mostly reactive other than proactive. The establishment of the GoNU and the GOSS and similarly the security and the socio-economic aspects partially took form in both the north and the south of Sudan while justice and reconciliation did not take place. Democracy and the international law aspects as important parts of the Liberal peace theory in this case featured less.

This status quo implies that the theory was not good enough in relation to the findings of the study whereby there were/are tensions and threats to a return to war initially in one Sudan and now in the two Sudans. It is viewed in this regard that the theory was very ambitious as Sudan and later the two Sudans could not over a short period of time become at par with the global north’s way of doing things in the areas

as indicated in the Utsein palette (**See figure 2.3**). This implies that the actors both local and international on the ground failed to apply them properly hence the tensions and the threats to a return to war still being present between the two Sudans.

Considering the option of separation in the right to self-determination concept, it can be contended that it was problematic as it is noted that the attitudes, the behaviour and conflict as articulated in the Galtung's ABC conflict triangle theory did not change in view of the actors in the north and the south of Sudan. This certainly is due to the reasons as have been advanced in the study findings. It is however noted that partial negative peace to some extent was achieved through the CPA as a settlement.

Similarly as can be noted, Liberal peace failed to take root due to the one size fits all rigid and high aspirations approaches initially in one Sudan and later the two Sudans. A critical look at the two theories (Galtung's ABC conflict triangle and the Liberal peace theories) it can then be stated that Liberal Peace theory is rather a blunt instrument while the Galtung's ABC conflict triangle theory is sharper in the context of conflict resolution.

7.4 Comparative considerations

On 9 July 2011 South Sudan became the newest independent state in Africa. Given the importance that is accorded to the inviolability of colonial borders in African international relations, the process of the right to self-determination of southern Sudan which came through the 2005 Sudan CPA raised questions on the discourse about the practice of the concept under general international law. This is significantly in the context of African regional law whereby Africa has long observed taboos against changing the national boundaries given to the independent countries during their colonisation/decolonisation. Several entities against this background tried to either separate or secede from their parent states and surprisingly some were allowed whilst others were not. Temin (2010:2) states that history matters in cases of this nature, because it demonstrates the intractability of the conflict and suggests whether separation or unity may be the necessary options as part of the right to self-determination.

O'Leary, (2001: 54) as in chapter 2 defines partition/separation as a fresh border cut through at least one community's national homeland, creating at least two separate political units under different sovereigns or authorities and secession as the dividing of territory along a previously established line of division. Partition is either de jure whereby a new state formed from a separation is internationally recognised or de facto whereby there is divided sovereignty over the territory of a single internationally recognised state (Chapman and Roeder, 2007:677-691).

This section reflects on these incidents with other conflict areas in Africa as basis for comparisons to the Sudan conflict in the context of the CPA case specifically on the aspect of the right to self-determination with its options of separation or unity in it which was given to South Sudan as an important part of resolving protracted and intractable conflicts.

7.5 Further research

Peace processes require careful handling in order to achieve durable peace. As this study has shown in the case of the CPA, the use of appropriate conflict resolution approaches and methods to achieve agreements coupled with their effective implementation and monitoring is crucial to resolving conflicts and achieving sustainable peace.

Considering the history of colonialism and artificial boundaries in Africa, the quest for separation and secession threatens peace and security on the continent. Given that claims of self-determination have been, and continue to be handled differently as discussed in this study, there is need for further research on another peace process in order to establish why other cases are accepted and others not accepted in order to investigate conflict resolution approaches and methods and solutions driven by appropriate conflict resolution theories.

The Casamance case in Senegal in this regard provides a good test case. Casamance is a region in southern Senegal, which was a Portuguese region before but through negotiations, Portugal handed it over to France, which, at the time, was a colonial master of the present day Senegal. The region's history, location, and poor economic condition have provided the impetus for separatism but up to the present no clear solution has yet been reached on the conflict. A partial peace deal was

reached in 2014 but there still is a hiatus on the question of the right to self-determination.

The final analysis in the context of this study is that the idea of the right to self-determination with its options of separation/secession and unity should be considered in peace agreements but only with a number of caveats – history, proper consideration of the Galtung's ABC conflict triangle theory and the causal factors.

Bibliography

Abdalla, M.A. (2010). *Abyei natural resources conflict*. Tswane (Pretoria): Institute of Security Studies.

Adar, G.K., (2005). *The Sudan peace process*. Cape Town: Africa Institute of South Africa.

Ahamed, A.G.M. (2010). *Sudan peace agreements: current challenges and future prospects*. Bergen: Chr.Michelsen Institute- (CMI working paper SWP 2010:1) 17P.

Akol, L. (2001). *Inside an African revolution*. Khartoum: Khartoum University Press.

Akol, L.(1987).The present war and its solution. In: Deng, F.M and Gilford, P. (eds). Ethnicity,regionalism and national cohesion in the Sudan. *Sudan notes and records*, 60-61, pp. 1979-80.

Al Kabashi A. (2010). *Sudan Post-Referendum Issues under serious discussion*. Doha Al Jazeera Centre for Studies.

Albino, O. (1970). *The Sudan: a southern viewpoint*. London: Oxford University Press.

Alier, A. (1991). *Too many agreements dishonoured*. Reading: Ithaca Press.

Antwi-Boateng, O and Maria, O.G.(2008). A framework for the analysis of peace agreements and lessons learned: the case of the Sudanese comprehensive peace agreement, *Politics and policy*, 36(1), pp132-178.

Ashworth, J.(2009). The state of the CPA, Alert 1, Available at: <http://www.ikvpaxchristi.nl/uk> . DH, Utrecht.

Assal, M. (2009b).The question of identity in Sudan: new dimensions for an old problem. *Maghreb review*, 54 (2-3), pp. 181-194.

Assal,M. A.M.(2011). *Nationality and citizenship questions in Sudan after the Southern Sudan referendum vote*: CMI Sudan report.

Azar, E.E. (1990). The management of protracted social conflict: theory and and cases. Hampshire: Dartmouth Publishing Company Ltd.

- Baker, C.L. (2011). South Sudan's enduring secession issues: is peace possible?. *The Applied Anthropologist*, 31(2), pp.42-48.
- Bamfo, N. (2012). The Menace of Secession in Africa and Why Governments Should Care: The Disparate Cases of Katanga, Biafra, South Sudan, and Azawad. *Global Journal of Human Social Sciences*, 12(10), pp. 37-48.
- Bannon, I and Collier, P. (2003). *Natural resources and violent conflict: options and actions*. Washington, D.C.: World Bank Press.
- Barath, D. P and Webel, C.P. (2009). *Peace and conflict studies*, 2nd ed. London: SAGE.
- Baltrop, R. (2008). The negotiation of security issues in Sudan's comprehensive peace agreement, *Country study negotiating disarmament*, 2, pp.1-46.
- Barnett, M., Kim, O. M and Sitea L. (2007). Peacebuilding: What Is in a Name?, *Global Governance*, 13, pp.35–58.
- Basha, S. (2006). The comprehensive peace agreement- a synopsis: In- Raftopoulos, B and Alexander, K. *Peace in a balance: the crisis in Sudan*. Cape Town- RSA: Institute of Justice and Reconciliation.
- Belloni, R. (2011).The birth of South Sudan and the challenges of statebuilding, *Ethnopolitics*, 10 (3-4), pp.411-429.
- Bercovitch, J and Jackson, R. (2012). *Conflict resolution in the twenty first century: principle, methods and approaches*. Michigan: University of Michigan Press.
- Beshir, M.O. (1968). *The southern Sudan: background to the conflict*. New York: Praeger.
- Beshir, M.O. (1975). *The Southern Sudan: from conflict to peace*. Khartoum: Khartoum Bookshop.
- Beswick, S.F. (1994). Non-acceptance of Islam in Southern Sudan: the case of the Dinka from the pre-colonial period to Independence -1956. *North East African Studies*, 1(2 and 3), pp. 19-47.
- Bishoff, P.H.(2007) Towards continental transformation: understanding sustainable peace agreements in Africa, *Conflict trends*, 3, pp.3-7.

Bockenforde, M. (2010). Hague tribunal- the Abyei award; fitting a diplomatic square peg into a legal round hole. *Leiden Journal of International Law*, 23(2010), pp.555.569.

Boulding, K. (1989). *Three faces of power*. Newbury Park-CA: Sage.

Boutros Ghali, B. (1992). An agenda for peace. United Nations: A47/277-5/2411. Available at: <http://www.un.org/Docs/SG/agpeace.html>. (Accessed: 13 January 2013).

Boutros Ghali, B. (1995) Supplement to an agenda for peace. United Nations: A/50/60-5/1995/1. Available at: <http://www.un.org/Docs/SG/agpeace.html>. (Accessed: 13 January 2013).

Bowling, A. (2002). *Research methods in health: investigating health and health service*. 2nd ed. Berkshire: United Kingdom: Open University Press.

Branch, A. (2011), *Displacing human rights: war and intervention in Northern Uganda*. USA: Oxford University Press.

Branch, A & Mampilly, Z.C. (2004) Winning the war, but losing the peace? The dilemma of SPLM/A civil administration and the tasks ahead, *Journal of Modern African Studies* 43 (1), p 1-20.

Bray, J and Lunde, L. (2005). *Oil and mining revenues: from curse to blessing for developing countries? Challenges to governments, companies and NGOs*. Norwegian Church Aid Occasional paper: 3-4.

Brewer, J.D. (2010). *Peace processes: a sociological approach*. Cambridge: Macmillan.

Bronché, J. (2009). *Sharing power- enabling peace? evaluating Sudan's comprehensive peace agreement*. Uppsala- Sweden: Uppsala University.

Brosché, J (2007). CPA new Sudan, old Sudan or two Sudans? A review of the implementation of the CPA, *Journal of Policy Studies*, 13(1), pp.1-25.

Bush, R.A.B and Folger, J.P. (2005). *Promise of mediation: the transformation approach to conflict*. California: Jossey-Bass.

Carnevale, P.J. and Pruitt, D.G.(1992).Negotiation and mediation. *Annual Review of Psychology*, 43(1), pp.531-582.

Červenka, Z.(1997). Eritrea: Struggle for Self-Determination or Secession?, *Africa Spectrum*, 12(1), pp. 37-48.

Cheeseman, N, Anderson, D.M. and Scheibler, A. (2015). *Routledge handbook of African politics*. London:Routledge-Taylor and Francis Group.

Collier, P and Sambanis, N. (2005).*Understanding civil war: evidence and analysis*. Washington D.C.: World Bank.

Collins, R.O. (2008). A history of modern Sudan. Cambridge: Cambridge University Press.

Copnall, J. (2014). *A poisonous thorn in our hearts: Sudan and South Sudan's bitter and incomplete divorce*. London: Hurst & Company.

Creswell, W.C. (2007). *Qualitative inquiry and research design: choosing among five approaches*. Thousand Oaks, California: Sage Publications.

Curless, G. (2010). *Sudan's 2010 national elections*. Ethno-politics papers: 2010-3.

Curless, G. (2011). Sudan's 2011 referendum on Southern secession. *Ethnopolitics*, 7, pp.1-25.

Curtis, D. (2015). Post-conflict peacebuilding. In: Cheeseman, N., Anderson, D.M and Scheibler, A. (eds), *Routledge handbook of African politics*. London: Routledge-Taylor and Francis Group.

Daly, M.W. and Sikainga, A.A. (eds). (1993).*Civil war in the Sudan*. London: British Academic Press.

Daoud, D. (2012). *Factors of secession: the case of south Sudan*. PhD Thesis, University of Saskatchewan.

Darby, J and MacGinty,R. (2008). *Contemporary peacemaking: conflict, peace processes and post-war construction*, 2nd ed. New York: Paigrave Macmillan.

David, C. P. (1999). Does peacebuilding build peace? Liberal (mis) steps in the peace process. *Security Dialogue*, 30(1), 25-41.

De Kock, P. (2011). *Politics of resources, resistance and peripheries in Sudan's comprehensive agreement*. Switzerland: Center for Humanitarian Dialogue.

Dersso, S.A. (2012). International law and the self-determination of South Sudan. /SS, 231, pp.1-10.

De waal, A (2009). *Who are the Sudanese of Darfur?, making sense of Sudan (previously making sense of Darfur)*. Available at: <http://blogs.ssrc.org/sudan/2009/12/14> who are-the Sudanese: [Accessed 20 January 2015].

Deng, F.M. (1995). *War of visions: conflict of identities in the Sudan*. Washington D.C.: The Brooklyn institution.

Deng, F.M. (1995). Negotiating a hidden agenda: Sudan's conflict of identity. In: Zartman, I. *Elusive peace: negotiating an end to civil war*. Washington D.C.: The Brookings Institution.

Deng, F.M. and Zartman, I.W. (eds) (1991). *Conflict resolution in Africa*. Washington D.C.: The Brookings Institution.

Dersso, S.A. (2012). International law and the self-determination of South Sudan. /SS, 231, pp.1-10.

Diamond, L and McDonald, J. (1996). *Multi-Track Diplomacy: A Systems Approach to Peace*, Washington, DC: Kumarian Press.

Education and Cultural Department (1973). *The Addis-Ababa Agreement on the southern Sudan*. Juba: Education and Cultural Department. p.37.

Edward Thomas (2010) Sudan's 2010 elections – victories, boycotts and the future of a peace deal, *Review of African Political Economy*, 37(125), pp.373-379.

Egwu, S.G. (2007). Beyond revival of old hatred: the state and conflict in Africa. In: S.G. Best (ed), *Introduction to peace and conflict studies in West Africa*. Ibadan: Spectrum Books.

El-Affendi, A. (2001). The impasse in the IGAD peace process for Sudan: the limits of regional peacemaking. *African Affairs*, 200(401), pp. 20-53.

El-Batahan, A. (2010). Sudan Votes: the 2010 elections and prospects for democratic transformation. In: Heinrich Boll Stiftung (ed), *Sudan –no easy ways ahead*. Berlin: Henrich Boll Stiftung, pp.31-50.

Eprile, C. (1974). *War and peace in the Sudan-1955-1972*. London: Davis and Charles – Newton Abbot.

Espeill, H.G. (1980). *The right to self-determination: implementation of the United Nations resolutions*. New York: UN.

Ferhatović, E. (2011). Implementing peace in Sudan: lessons for EU common foreign and security policy. *The Open Think Tank*, pp.1-17, Available at: <http://www.atlantic-community.org/app/webroot/pdf>. (Accessed: 25 October, 2014).

Fick, M. (2010). *Preparing for two Sudans*. Enough project. Available at: http://www.enoughproject.org/files/Two_Sudans.pdf , [Accessed: 20 January 2015].

Fisher, R.J. (2001). *Methods of third party interventions*. Germany: Berghof Research Centre for Constructive Conflict Management.

Fisher, S., Abdi, D.I., Ludin, J., Smith, R. Williams, s and Williams, S. (2000). *Working with conflict: skills and strategies for action*. New York: Zed Books.

Flint, J. (2011). The Nuba Mountains: central to Sudan's stability, Netherlands. Available at: <http://www.ikvpaxchristi.nl/uk>. (Accessed 30 July 2004).

Francis, D.J. (2008). *Peace and conflict in Africa*. London: Zed Books.

Galtung, J. (1996). *Peace by peaceful Means: peace and conflict, development and civilization*. Oslo: International Peace Research Institute- (PRIO).

Gasim, G (2011). Sudan's 2010 Presidential and Parliamentary Elections. *Electoral Studies*, 30 (2), pp.375-378.

Gray, R. (1961). *A history of southern Sudan, 1839-1889*. London: Oxford University Press.

Guftason, M. (2010). *Electoral designs: proportionality, representation, and constituency boundaries in Sudan's 2010 elections*. London: Rift Valley Institute.

Hampson, F.O. (1996). *Nurturing peace: why peace settlements succeed or fail*. Washington D.C.: USIP Press.

Hannum, H. (1996). *Autonomy, sovereignty and self-determination: the accommodation of conflicting rights*. Philadelphia: University of Pennsylvania Press.

Hartzell, C and Hoddie, M. (2003). Institutionalising peace: power sharing and the post-civil war conflict management, *Journal of Political Science*, 47(2), pp.318-332.

Hartzell, C., Hoddie, M and Rithchild, D. (2000). Stabilising the peace after civil war: an investigation of some key variables. *International organisation*, 55(1), pp.183-208.

Haslie, A. & Borchgrevink, A. (2006). International Engagement in Sudan after the CPA. *Report on the Piloting of OECD/DAC's Principles of for Good International Engagement in Fragile States' for the Case of Sudan*. Norway: Norwegian Institute of International Affairs: 2007-714.

Hemmer, J. (2009). *Ticking the box: elections in Sudan*. The Hague: Netherlands Institute for International Relations- Clingendael.

Heyns, C and Stefiszyn, K. (eds). (2005). *Human rights, peace and justice in Africa: a reader*. Pretoria: Pretoria University Press.

Hoffman, M. (2009). What is left of the 'liberal peace?'. *LSE Connect*, 21(2), 10-11.

Holt, P.M and Daly, M.W. (2000). *A history of the Sudan: from the coming of Islam to the present day*. Essex: Pearson Education Ltd.

Holt, P.M. (1961). *A modern history of the Sudan: From the Funj Sultanate to the present day*. London: Weidenfeld and Nicolson, Institute of Peace Press.

Horkheimer, M. (1972). *Critical Theory*, New York: Seabury Press

Horkheimer, M.(1972).1993. *Between Philosophy and Social Science*, Cambridge: MIT Press.

Inter-Africa Group (1994). *Mediation of the Sudan conflict*. Addis-Ababa: Inter-Africa Group. 1.

International Crisis Group (2010).Negotiating Sudan's North-South future. *Africa Briefing*: 76.

International Peace Academy (IPA). (2001).*Towards comprehensive peacebuilding*. New York seminar 7-10 May, Available at: <http://www.ipacademy.org>. (Accessed: 14 January 2013).

Iyekelo, W.S. (2011). *A return of hostilities? Comprehensive Peace Agreement, Transformational Challenge and the Future of Sudan*. Masters' Thesis, Aalborg University.

Iyob, R and Khadiagala, G.M. (2006). *Sudan: the elusive quest for peace*.London: Lynne Rienner Publishers.

Jarstaad, A. (2006).*The logic of power sharing after civil war*. Uppsala: Uppsala University.

Jervis, R. (1978). Cooperation under the security dilemma, *World politics*, 30(2), pp.167-214.

Joeng. H.(2010). *Conflict management and resolution: an introduction*. Oxon: Routledge.

Johnson, D.H. (2007). Why Abyei matters: the breaking point of Sudan's comprehensive peace agreement? *African Affairs*, 107(426), pp.11-19.

Johnson, D.H. (2010). *Contested borderlands: when boundaries become borders – the impact of boundary making in Southern Sudan's frontier zones*. Nairobi-Kenya: Rift Valley Institute.

Johnson, D.H. (2011). *The root causes of Sudan's civil wars: peace or truce*. Kampala: Fountain publishers.

Johnson, D.H. (2013). New Sudan or South Sudan? The multiple meanings of self-determination in Sudan's CPA. *Civil wars*,15(2), pp. 141-156.

Johnson, H.F.(2011). *Managing peace in Sudan: the inside story of the negotiations that ended Africa's longest civil war*. East-borne: Sussex Academic Press.

Jooma, M. B. (2007). *Dual realities: Peace and war in Sudan- an update on the implementation of the Comprehensive Peace Agreement*. ISS report- South Africa.

- Jumbert, M.G. and Rolandsen, O.H. (2013). *After the split: post secession negotiation between South Sudan and Sudan*. NOREF-Norwegian Peacebuilding Resource Centre report.
- Kabede, G. (1997). The north-South conflict in historical perspective. *Contributions in Black studies*, 15(1)3, pp. 1-31.
- Kaufman, C.D.(1998). When all else fails: ethnic population transfers and partitions in the 20th century, *International Security*, 23(2), pp:120-156.
- Kaldor, M. (2007). *Human security: reflections on globalisation and intervention*. Cambridge: Polity Press.
- Karkrin, R. (1994). *Ethno-politics and transition to democracy: The collapse of USSR and Latvia*. Washington D.C.: Woodrow Wilson Centre Press.
- Kempster, N. (1993). Terrorism case puts focus on secretive Sudan. *Los-Angeles Times*, p.16.
- Kendie, D.(2005). *The Five Dimensions of the Eritrean Conflict 1941–2004: Deciphering the Geo-Political Puzzle*. United States of America: Signature Book Printing, Inc.
- Kissinger, H.A. (1969). *Nuclear weapons and foreign policy*. New York: W.W. Norton.
- Kleiboer, M.(1998). Understanding success and failure of international mediation. *Journal of conflict resolution*, 40 (2), pp. 360-389.
- Kloc Institute for International Peace Studies (2012). *Comprehensive peace agreement: how it is defined and does it matter*. Notre Dame: University of Notre Dame.
- Kumar, K. (1997). The nature and focus of international assistance for rebuilding war torn societies. In: Kumar, K (ed), *rebuilding societies after civil war: critical roles for the international assistance*. London: Boulder-Lynne Rienner.

Lanz, D. (2010). Who gets a seat at the table? A framework for understanding the dynamics of inclusion in peace negotiations, *International negotiation*, 16(2011), pp.275-295.

Lederach, J.P. (1997). *Building peace: sustainable reconciliation in divided societies*. Washington D.C.: United States Institute of Peace Press.

Leedy, P.D. and Ormrod, E.O. (2010). *Practical research : planning and design*. 10th ed. London: Pearson.

Lesch, A.M. (1993). Negotiation in Sudan. In: *Somck, D.R. making war and waging peace: foreign intervention in Africa*. Washington D.C.: USIPP.

Lesch, A.M. (1998). *The Sudan: contested national identities*. Oxford: James Currey Ltd.

Lunn J. (2010) Sudan: *Peace or war Unity or Secession*. United Kingdom: Parliament, House of Commons Library: Research Paper, 10/40.

Mac Ginty, R. (2010). Hybrid peace: The interaction between top-down and bottom-up peace. *Security dialogue*, 41(4), 391-412.

Maghoub, M.A. (1974). *Democracy on trial*. London: Andre: Deutsch.

Mahomed I.A (2012). *Review of the Comprehensive Peace Agreement, Fruits of Southern Secession, Calamitous Wars and the Disintegration of Sudan*. Khartoum-Sudan: Alneelain University Press.

Malwal, B. (2005). *Sudan's latest peace agreement: an accord that is neither fair nor comprehensive- a critique*. Omdurman: Abdel Karim Mirghan Cultural Centre.

Mansour, K. (1987). *John Garang speaks*. London: Keagan Paul International.

Maundi et al., (2006). *Getting in: mediators' entry into the settlement of African conflicts*. Washington, D.C.: United States Institute of Peace Press.

Maundi et al., (2006). *Getting in: the mediation entry into the settlement of African conflicts*. Washington, D.C.: USIPP..

- Medani, K.M. (2011). Strife and secession in Sudan. *Journal of democracy*, 22(3), pp. 135-149.
- Miall, H., Ramsbotham, O and Woodhouse, T. (1999). *Contemporary conflict resolution*. Cambridge: Polity Press.
- Miall, H., Ramsbotham, O and Woodhouse, T. (1999). *Contemporary conflict resolution*. Cambridge: Polity Press.
- Miller, D. (2002). *Citizenship and national identity*. Cambridge: Polity Press.
- Mitchel, C. (2008). Mediation and the ending of conflicts. In: Darby ,J and MacGinty, R. (eds), *Contemporary peacemaking: conflict, peace processes and post-war reconstruction*. London: Palgrave Macmillan.
- Morris, M. (1996). By force of arms: rape, war and military culture. *Duke Law Journal*, 45 (4), pp.652-692.
- Musso, G. (2011). *From one Sudan to two Sudan: from war to peace*. ISPI working paper: 2006:40.
- Mwaura, C and Schmedil, S. (eds) (2002). *Early warning and conflict Management in the Horn of Africa*. Asmara: The Red Sea Press, Inc.
- Natsios, A.S. (2012). *Sudan, South Sudan and Darfur: what everyone needs to know*. Oxford: Oxford University Press.
- Nedelcheva, M.(2011). Southern Sudan on the road to independence and democracy. *European view*, 20, pp.73-78.
- Nyaba, p. (1997). *The politics of liberation in South Sudan: an insiders' view*. Kampala: Fountain Publishers.
- O'Ballance, E.(2000). *Sudan, civil war and terrorism, 1956-1999*. London: Macmillan Press Ltd.
- Olowu, D. (1994). *The nature and character of the African state, Conference on political pluralism and good governance in Africa: implications for the public service*. Banjul- Gambia, 24 -29 January 1994. Nigeria: Obafeni Awolomo University.

- Omeje, K.C. (2008). *Understanding conflict resolution I Africa*. In: Francis, D.J. (ed), *Peace and conflict in Africa*. London: Zed Books.
- Onguergouz, F. (1993). *The African charter on human and peoples' rights: a comprehensive agenda for human rights and sustainable democracy in Africa*. Hague: Kluwer.
- Panagiotis, P. (1995). *Secessionist Movements: An Analytical Framework*. *Honours Theses*. Southern Illinois University Carbondale, Paper 183.
- Pankhurst, D. (1999). Issues of justice and reconciliation in complex political emergencies: conceptualising reconciliation, justice and peace. *Third World Quarterly*, 20(1), 239-255.
- Pantazopolous, P. (1995). *Secessionist Movements: An Analytical Framework*". *Honors Theses*. Paper 183.
- Paris, R. (2004). *At war's end: building peace after conflict*. Cambridge: Cambridge University Press.
- Parker, K. (2000). *Understanding self-determination: the basics*. Geneva: United Nations..
- Poggo, S.S. (2009). *The first Sudanese war: Africans, Arabs and Israelis in the Southern Sudan, 1955-1972*. New York: Palgrave Macmillan.
- Raftopoulos, B and Alexander, A. (2006). *Peace in the balance: the crisis in Sudan*. Cape Town: Institute for justice and reconciliation.
- Ramsbotham, O., Woodhouse, T and Miall, H. (2011). *Contemporary conflict resolution: the prevention, management and transformation of deadly conflicts* 3rd ed. Cambridge: Polity Press.
- Reeves, E. (2012). *Compromising with evil: an archival history of greater Sudan 2007-2012*. Northampton-Massachusetts: Massachusetts Press.
- Reimann, C. (2004). Assessing the state-of-the-art in conflict transformation. *Transforming Ethnopolitical Conflict*, VS Verlag für Sozialwissenschaften, pp. 41-66.

Richmond, O.P. (2002). *Maintaining order, making peace*. Hampshire: Palgrave Macmillan.

Richmond, O.P. (2003). Realising hegemony? New wars, new terrorism and the roots of conflict. *Terrorism and Conflict Studies*, 24(4), pp.295-313.

Roeder, P.G and Rothchild, D. (2005). *Sustainable peace: power and democracy after civil wars*. London: Cornell University Press.

Rogier, E. (2005). *Designing an integrated strategy for peace, security and development in post-agreement Sudan*. Netherlands Institute of International Relations, 'Clingendael', Conflict Research Unit.

Rogier, E. (2005). *No more hills ahead: the Sudan torturous ascent to heights of peace*. Clingendael: Netherlands Institute of International Relations.

Rolandsen, O.H. (2011). A quick fix? A retrospective analysis of the Sudan Comprehensive Peace Agreement. *Review of the African political Economy*, 38 (130), pp. 551-564.

Roque, P.C. (2010). Sudan elections; inaugurating the last unified political order? *African Security review*, 19(2), pp.48 – 51.

Ruay, D.D. (1994). *The politics of two Sudans; the South and the North 1821-1969*. Uppsala, Sweden: Nordiska Afrikainstitutet.

Ruth, I. and Khadiagala, G.M. (2006). *Sudan: the elusive quest for peace*. London: Lynne Rienner publishers.

Saeed, A. (2010). *Challenges facing Sudan after referendum day 2011: persistent and emerging conflict in the North-South borderline states* : CMI report- Sudan.

Saeed, A. (2010). *Challenges facing Sudan after referendum day 2011: persistent and emerging conflict in the North-South borderline states*. CMI Sudan report: 2010-1.

Saltzman, J. (2006). *Risks of consociationalism in Sudan*. MA, University of North Carolina, Chapel Hill.

Sambanis, N and Doyle, M. (2000). International peacebuilding: a theoretical and quantitative analysis. *American Political Science Review*, 94(4), pp.779-802.

Sanderson, G.N. (1985). *The ghost of Adam Smith: modernisation in the Sudan*. New York: Lilian Barber.

Simmons, M and Dixon, P. (2006). Peace by piece: addressing Sudan's conflicts. Accord Conciliation Resources, *International Review of Peace Initiatives*, 18, pp.1-103.

Sisk, T. (1996). *Power sharing and international mediation in ethnic conflicts*. Washington D,C.: USIPP.

Smith, A. (1991) *National identity*. London: Penguin Books.

Smith, D. (2004). *Towards a strategic framework for peacebuilding: Getting their act together*. Royal Norwegian Ministry of Foreign Affairs.

Smith , R (2001). Citizenship. *Political International Encyclopedia of Social Behavioural Sciences*, pp.1857-1860.

Smock,D.R.(1993). *Making war and waging peace: foreign intervention in Africa*. Washington D.C.: USIP Press.

Spaulding, J. et al. (2010). *Sudan's wars and peace agreements*. Cambridge: Cambridge Scholars Publishers Ltd.

Sriram, C.L. (2008). *Peace as governance: power sharing, armed groups and contemporary peace negotiations*. New York: Palgrave Macmillan.

Steadman, J.S and Rothchild, D. (1996). Peace operations from shrt term to long term commitment, *International Peacekeeping Journal*, 3(2), pp. 17-35.

Steadman, J.S., Rothchild, D and Cousens, E.M. (2002). *Ending civil wars: the implementation of peace agreements*. Boulder-Colorado: Lynne Reinner Publishers, Inc.

Stuart, F. (2005).Policies towards horizontal equality in post-conflict reconstruction, Crise working paper: Available at: <http://www.crise.ox.ac.uk/pubs/workingpaper7pdf>.

Sulaimana, A.O. and Ifeanyi Chuckwu, A. (2013). South Sudan's negotiated independence: a critique of African Union's role. *European Union Journal of Sustainable Development*, 2 (3), pp. 145-154.

Thomas, C. (2010). *Decisions and deadlines: a critical year for Sudan*. A Chatham House Report.

Thomas, E. (2009). Against the gathering storm: securing south Sudan's Comprehensive Peace Agreement, Chatham house report, London: Royal Institute of International Affairs.

Thomas, E. (2010). Sudan's elections – victories, boycotts and the future of a peace deal. *Review of Africa Political Economy*, 37(125), pp. 373-379.

United Nations. (1945). *Charter of the United Nations and the statute of the International Court of Justice*. San Francisco: United Nations Press.

Uppsala Conflict Data Programme (2007). Uppsala conflict data base. Available at: <http://www.pcr.uu.se/database>, Uppsala University.

Vingamuru, L and Boesenecker, A.P. (2007). *Accountability and peace agreements: mapping trends from 1980-2006*. Switzerland: Centre for Humanitarian Dialogue.

Voll, J.O and Potts, S. (1985). *The Sudan*. Boulder: Westview.

Wai, D. (ed). (1973). *The Southern Sudan: the problem of national integration*. London: Frank Cass.

Wai, D.M. (1981). *The African-Arab conflict in the Sudan*. London: Africana Publishing Company.

Waihenya, W. (2006). *The mediator: General Lazarus Sumbeiywo and the Southern Sudan peace process*. Nairobi: Kenway Publications.

Wakoson, E.N. (1987). The dilemmas of the North-South conflict. In: Deng, F. M and Gilford, P. *the search for peace and unity in the Sudan*. Washington D.C.: Wilson Woodrow Centre Press.

Walleensteen, P and Sollenberg, M. (1997). Armed conflicts, conflict termination and peace agreements, *Journal of Peace research*, 34(3), pp.339-358.

Waterman, H. (1991). *The political geography of peace and conflict*. New York: John Wiley.

Wennmann, A. (2010). Wealth sharing and peace processes. *The economics of Peace and Security Journal*, 5 (2), pp. 23-29.

Williams ,P.D. (2011). *War and conflict in Africa*. Cambridge: Polity Press.

Wills, J and EL-Batahan, A.(2009). We changed the laws; electoral practice and malpractice in Sudan since 1953, *African Affairs*, 109(435), pp. 191-212.

Wills, J. (2011).Sudan's elections: voting for authoritarians. *African Review*, 3(1), pp. 47-64.

Wolfs, S.(2012). South Sudan's year one, *Rusi Journal*, 157(5), pp. 46-54.

Woodward, P. (1990). *Sudan, 1898-1989: the unstable state*. London: Lester Crook Academic Publishing.

Woodward, P.(2011).Towards two Sudans. *Survival*, 53(29), pp.5-10.

Yilmaz, M.E. (2008). The new world order: an outline of the post-Cold war era. *Alternatives-Turkish journal of International Relations*, 7(4), pp.1-15.

Ylonen, A. (2006). Limits of peace through state building in southern Sudan: challenges to state legitimacy, governance and economic development during the CPA implementation 2005-2011, *Journal of conflictology*, 3(2), pp.28-40.

Young, J. (2007). Sudan: a flawed peace process leading to a flawed peace, *Review of African Political Economy*, 3(3003), pp. 99-113.

Young, J. (2007). *The white army: an introduction and overview*. Switzerland: Small Arms Survey-Graduate Institute of International Studies.

Young, J. (2012). *The fate of Sudan: The origins and consequences of a flawed peace process*. London:Zed Books.

Zartman, I.W. (1997).*Peacemaking in international conflict*. Washington, D.C.: United States

Zartman, I.W. and Touval, S. (2007). International mediation. In: Crocker,C., Hampson, F and Aall, P. (eds). *Leashing the dogs of war: conflict management in a divided world*. Washington D.C. :United States Institute of Peace.

Zartman, I.W.(1989). *Ripe for resolution: conflict and intervention in Africa*. Oxford: Oxford University Press.

Zartman, I.W.(2000). *Ripeness: hurting stalemate and beyond*: In: *international conflict resolution*, Kriesberg, L and Druckman. D (eds). Washington, D.C.: National Academy Press.

Zezeza, P. T and Nhema, A.G. (eds) (2008). *The resolution of African conflicts: the management of conflict resolution and post-conflict reconstruction*. Ohio:Ohio University Press.

Appendices

Appendix 1

Participant Information Sheet

(Attachment to the consent form)

You are being invited to take part in a research study as part of a PhD student research project. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully. Please ask if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

Who will conduct the research?

Paul Velentino Phiri.
University of Bradford,
Peace Studies Department,
Richmond Road,
BD7 1DP
United Kingdom
Cel: +447438874715
E-mail: paphiri1@yahoo.com

Title of the Research

The title of the research is “Trials of a comprehensive peace agreement: an investigation into the dilemmas faced by North and South Sudan”.

What is the aim of the research?

To investigate why there have been tensions between North and South Sudan since the CPA and even after the independence of South Sudan.

Why have I been asked to participate in the study?

I asked you to participate in this study because of your involvement/expert knowledge in the 2005 Sudan Comprehensive Peace Agreement process.

What would I be asked to do if I took part?

If you agree to take part, I will ask you to answer some questions. There are no right or wrong answers – I just want to hear about your opinions. The discussion will take about 45 minutes to an hour depending on the circumstances. Please note that some of the questions will relate to your personal history and experiences.

What happens to the data collected?

All the information you will provide **will be confidential** and used only for the purposes of this study. The data will be collected and stored in accordance with the Data Protection Act 1998 of the UK and will be disposed of in a secure manner. The information will be used in a way that will not allow you to be identified individually

How is confidentiality maintained?

Confidentiality will be assured and maintained in order to help protect the privacy of the participants. It will be provided through an assurance that the information given will not be made available to anyone not directly involved with the study. However names of the participants will/can be written on the study materials, that is including the interview guides. The interview guides will be kept by me and nobody else will be allowed access to them. Anonymity may also be offered on request.

What happens if I do not want to take part or if I change my mind?

It is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet to keep and be asked to sign a consent form. If you decide to take part you are still free to withdraw at any time without giving a reason and without detriment to yourself.

What is the duration of the research?

The interview will take a period of about 45minutes to one hour at the most.

Where will the research be conducted?

The interview will take place at a place which will be agreed by you and me and convenient to you..

Will the outcomes of the research be published?

The outcome of the research will be submitted to the University of Bradford for assessment purposes but thereafter will be released into the public domain (through publishing, conference presentations or press interviews) after appropriate consultations.

Contact for further information

Dr David Harris.
University of Bradford
Peace Studies Department,
Richmond Road,
BD7 1DP.
United Kingdom
Telephone: +44(0)1274236802.
E-mail: d.harris7@bradford.ac.uk

Appendix 2

Consent form

Project title: Trials of a Comprehensive Peace Agreement: an investigation into the dilemmas faced by North and South Sudan.

Name of researcher: Paul Velentino Phiri.

I have read and understood the attached information sheet giving details of the research project.

I have had the opportunity to ask the researcher any questions that I had about the project and my involvement in it and understand my role in the project.

My decision to consent is entirely voluntary and I understand that I am free to withdraw at any time without giving a reason.

I understand that data gathered in this project may form the basis of a report or other form of publication or presentation.

I understand that my name will not be used in any report, publication or presentation, and that every effort will be made to protect my confidentiality.

Participant's signature: Date:
Participant's name (in capitals).....

Researcher's signature: Date:

Appendix 3

The interview guide

Introduction

Salutation: (Good morning/Afternoon Sir/Madam). Thank you very much for agreeing to talk to me. I am Paul Velentino Phiri, a PhD research student from the Department of Peace Studies at the University of Bradford in the United Kingdom. I am from Malawi and in the academic circles, I am a lecturer in peace studies at Mzuzu University hence my interest in the area I am pursuing. I hope that you are agreeable to the contents of the letter I sent to you or my brief as regards the issues of consent and confidentiality. My study aims at investigating why there have been tensions between North and South Sudan since the CPA and even after the independence of South Sudan.

The topic of my study however is “Trials of a Comprehensive Peace Agreement: an investigation into the dilemmas faced by North and South Sudan”. I asked you to participate in this study because of your involvement/expert knowledge in the 2005 Sudan Comprehensive Peace Agreement process. The interview will take about 45 minutes to one hour. There is no right or wrong answer in this interview as I am only interested in your experiences and opinions. Feel free to interrupt, ask for clarifications and even to criticize at any point during the interview. I wish to assure you confidentiality in that your responses will be treated with the strictest confidence and that no any third person will have access to the interview documents. This far, I would like to ask for your permission if it is possible for me to audio record and take notes during this interview. The reasons for my request to record and take notes are for me to be able to have an accurate account of your responses and opinions. If this is not a problem with you, I kindly ask that we start the interview.

Many thanks for your understanding.

The main interview guide

Apart from the preliminaries, the interview will be divided into nine (9) parts. The first part will be a warm up, parts 2 to 7 will explore the research questions while the last two parts (8 and 9) conclude the interview. Specific questions will be asked but these

will in certain circumstances be followed up by prompts or probes generally to expand the depth and scope of understanding of particular issues. The interview will come from the topics listed below:

- Causes of the conflict and the perception of national/political identity in North Sudan and South Sudan and how it changed over time.
- Factors that influenced the parties in North Sudan and South Sudan who were in conflict to engage in mediation/negotiation to arrive at the various agreements and specifically the 2005 Comprehensive Peace Agreement
- Emergence of the right to self-determination as part of one of the protocols in the 2005 CPA and reasons why there were and are still significant problems between North Sudan and South Sudan.
- The problems of the 2005 Sudan CPA and some of its protocols in the context of peacebuilding among the parties concerned.
- Implications of the referendum, post-referendum and the post-independence issues as key underlying factors of the tensions between the two states.
- The linkages between the contested formation, the troubled implementation of the CPA, the post-referendum and the post-independence issues.

Part 1: Establishing the rapport (Warm up part).

Researcher: Can you tell me a little bit about yourself and how you got involved in the 2005 CPA process?/your expertise on the 2005 Sudan CPA?

Probe: Glad to know about this, tell me more about it.

Part 2: Causes and the perception of national/political identity in North Sudan and South Sudan and how it changed over time.

What might have been the origins and the causes of the conflict between the North and South Sudan? (Origins of the North-South divide in relation to Sudanese politics).

What factors do you think exacerbated the problems and hindered the North and the South to consider resolving them?

How did the divide eventually create a national/political identity problem and how was this problem perceived in North and South Sudan?

How did the divide create and affect national/political identity?

Probe fully

Was this a problem if so in what ways?

Part 3: Factors that influenced the parties in North Sudan and South Sudan who were in conflict to engage in mediation/negotiation to arrive at the various agreements and specifically the 2005 CPA.

In your opinion, what were the factors that were influencing the conflicting parties in the North and the South to engage in mediation/negotiation to arrive at the agreements?

What do you think were the internal or external factors that contributed to the mediation/negotiation of the various agreements that might have been reached in Sudan?

Many scholars suggest that as much as there were many agreements, only the 1972 Addis Ababa, the Khartoum and the 2005 CPA were critical. What is your view on this with regards to the factors that necessitated their mediation/negotiation?

What made the mediation/negotiation of the 2005 peace agreement to be a compelling case in the international community?

Probe: Anything else on this?

Part 4: Emergence of the right to self-determination as part of one of the protocols in the 2005 CPA and reasons why there were/are still significant problems before and after its implementation between North and South Sudan.

How did the right to self-determination come to be considered as an option during the CPA mediation/negotiation against a background of being viewed with ambivalence in the international community?

Scholars believe that the right to self-determination had turbulent origins. In your opinion, can it be said that it was negotiated, taken on-board in good faith and owned by the North and South Sudan delegates?

How was the presence of USA and its allies viewed during the mediation/negotiation of the CPA? Can it be assumed that they imposed the options especially the right to self-determination even if they appeared opposed to the concept initially?

What characterizes the right to self-determination and can you tell me why it was included as part of the Machakos protocol of the CPA and as a major issue of the referendum?

Overall, what can you say were the basis for the suggestion of the right to self-determination in the context of South Sudan as historically part of Sudan?

Part 5: The problems of the 2005 Sudan CPA and some of its protocols in the context of peacebuilding among the parties concerned.

Can you tell me if you were aware of the CPA protocols? If so what do you think about them- (Were they adequate or appropriate?), how were they perceived and what is your opinion on them?

Why was it that the option for the South to separate from the north (two-state solution) was not a stand-alone protocol while power sharing (both as options of the right to self-determination) was a protocol on its own?

What should have been included as components of peacebuilding in the CPA if there is any? Anything else on this?

Why is it that some protocols and issues went unresolved up until the CPA period ended? Can the death of Dr Garang be linked to this scenario?

Southern Kordofan and Blue Nile states and Abyei were and are part of North Sudan while the status of Abyei is contested. What can you say about their being included in the CPA as protocols?

How best could/can the issue of cross border populations, water and pasture-concerns which are linked with the border between Sudan and South Sudan be managed and resolved?

Power sharing protocol established the Government of the agreement in the form of a unity Government comprising north Sudan and south Sudan in the interest of trying to embrace the 'New Sudan concept'. Why did this system of Government not work well for both South and North Sudan as it is evident that in the process South Sudan opted to separate from North Sudan?

Part 6: The referendum, post-referendum and the post-referendum issues.

What factors may have contributed to southern Sudan opting to separate from Sudan after their being offered the attractive power sharing deal?

What issues had emerged after the referendum which required to be resolved to prevent tensions and a return to war by the two states?

Why has the border demarcation issue been problematic between north and south Sudan?

It is a fact that parts of the north and south Sudan populations are nomads and pastoralists and that some northerners and southerners are still either in North Sudan or in South Sudan after the separation of South Sudan from North Sudan. If this is the status quo, why is it that their status was not given urgent due recognition?

How has the mediation and the negotiation of the post-referendum and the post-independence issues been conducted in the context of conflict resolution?

Why has it been problematic to resolve the post-referendum and the post-independence issues between the two Sudans?

Part 7: The linkages between the contested formation, the troubled implementation of the CPA, the post-referendum and the post-independence issues.

How do you see the current situation between north and south Sudan? Are the tense formation process, the troubled implementation of the CPA and the post referendum and post-independence issues contributory factors?

Why is it problematic for north Sudan and south Sudan to accept most of the issues that came with the right to self-determination and its options of power sharing and separation?

How are the Abyei, Southern Kordofan and Blue Nile protocols and the security arrangements which were part of CPA linked to the post referendum and post-independence issues?

How can the problems that link the different stages (the contested formation, the troubled implementation of the CPA, the post referendum and the post-independence issues) be collapsed to pacify the tensions and prevent the two states to return to war?

Who should be blamed (north Sudan or south Sudan) for the stalemate in the resolution of the current tensions?

Part 8: Cool down part.

Researcher: I thank you for your patience Sir/Madam. Looking back at the emergence of the right to self-determination (which includes the options of power sharing and separation) and its significant implications between North and South Sudan, is there anything else you think you want me to know about in relation to these issues which I have not covered? If you have, please fill me in during these last few minutes.

You have been wonderful with all your responses, what message or advice can you give or leave to and for the people of north and south Sudan?

Part 9: Closing.

Well, it has been a pleasure to have you for this interview. You have really given out a lot on why there have been tensions between north and south Sudan since the CPA and even after the independence of South Sudan.

I appreciate the time you gave me for this interview despite your busy schedule. Would it be alright for me to contact/call you later at any time if I will have any more questions or certain aspects to verify or clarify with you? If this is fine with you, may you please provide me with your telephone number and/or e-mail? Is there anybody who you think I should contact on this issue? If that is the case can I have his/her contact details? Thank you very much once again. I look forward to meeting you again in future.

END OF THE INTERVIEW

Appendix 4

List of participants

North Sudan

Dr Abdelwahab EL-Affendi, 14 October, 2013, London: United Kingdom.

Dr Khalid, 2 December 2013, London-UK

Senior NCP negotiator, 10 October, 2013, United Kingdom (Idris Mohamed Abd al Kader).

Said al Khatib, 27 October 2013, London-UK

Mutrif Sadiq

South Sudan

Anna Ito, 8 July 2013, Juba- South Sudan

Bona Malwal, 22 October 2013, Oxford-UK

Leben Moro, South Sudan, 5 July 2013, Juba –South Sudan

Nhial Deng Nhial, 05 July 2013, South Sudan

Pagan Amum, 5 July 2013, Juba-South Sudan

SPLM/A negotiator, 27 October 2013, Bradford -UK (Salih Kaki).

IGAD Secretariat

General Lazarus Sumbeiywo, 12 September 2013, Nairobi-Kenya

Susan Page, 04 October 2013, South Sudan

Professor Adams Oloo, 12 September 2013, Nairobi- Kenya

Professor Muriuki, 13 September 2013, Nairobi – Kenya

Dr Douglas Johnson, 27 November 2013, Oxford-UK

The TROIKA

Alan Goultry, 5 November 2013, London –UK

Hilde Johnson, 22 August 2013, Juba-South Sudan

Appendix 5

The 1994 IGAD Declaration of Principles (DOPs)

We, Representatives of the Government of the Republic of the Sudan (hereinafter referred to as the GOS). The Sudan People's Liberation Movement/Sudan People's Liberation Army and the Sudan People's Liberation Movement/Sudan People's Liberation Army-United (hereinafter referred to as the SPLM/SPLA and SPLM/SPLA-United respectively). Recalling the previous peace talks between the Government of the Sudan on the one hand, the SPLM/SPLA and SPLM/SPLA-United on the other, namely Addis Ababa in August 1989, Nairobi in December 1989, Abuja in May/July 1992, Abuja in April/May 1993, Nairobi in May 1993, and Frankfurt in January 1992.

Cognizant of the importance of the unique opportunity by the IGAD peace initiative to reach a negotiated peaceful solution to the conflict in the Sudan; Concerned by the continued human suffering and misery in the war-affected areas; Hereby agree in the following Declaration of Principles (DOP) that would constitute the basis for resolving the conflict in the Sudan:-

1. Any comprehensive resolution of the Sudan conflict requires that all parties to the conflict fully accept and commit themselves to that

position that:-

1.1 The history and nature of the Sudan conflict demonstrate that a military solution can not bring lasting peace and stability to the country.

1.2 A peaceful and just political solution must be the common objective of the parties to the conflict.

2. The rights of self-determination of the people of South Sudan to determine their future status through a referendum must be affirmed; and

3. Maintaining unity of the Sudan must be given priority by all the parties provided that the following principles are established in the political, legal, economic and social framework of the country:

3.1 Sudan is a multi-racial, multi-ethnic, multi-religious and multi-cultural society. Full recognition and accommodation of these diversities must be affirmed.

3.2 Complete political and social equalities of all people in the Sudan must be guaranteed by law.

3.3 Extensive rights of self-administration on the basis of federation, autonomy, etc., to the various people of the Sudan must be affirmed.

3.4 A secular and democratic state must be established in the Sudan. Freedom of belief and worship and religious practice shall be guaranteed in full to all the Sudanese citizens. State and religion shall be separated. The basis of personal and family laws can be religion and customs.

3.5 Appropriate and fair sharing of wealth among the various peoples of the Sudan must be realized.

3.6 Human rights as internationally recognized shall form part and parcel of this arrangement and shall be embodied in Constitution.

3.7 The independence of the Judiciary shall be enshrined in the Constitution and laws of the Sudan.

4. In the absence of agreement on the above principles referred to in 3.1 – 3.7 the respective people will have the option to determine their future including independence, through a referendum.

5. An interim arrangement shall be agreed upon, the duration and the tasks of which should be negotiated by the parties.

6. The parties shall negotiate a cease-fire agreement to enter into force as part of the overall settlement of the conflict in the Sudan.

Nairobi, 20 May 1994.

Appendix 6

Rebel leaders in South Sudan since April 2010

	Person(s) Involved	Tribe	Date of rebellion	Reasons	Area of operation
1	George Athor Deng	Dinka	April 2010	Alleged rigging of gubernatorial elections	Jonglei
2	Bapiny Monituel	Nuer	Did not integrate after the 2006 Juba Declaration	Tribal grievances about the current SPLA leadership	Unity
3	Gabriel Tanginye	Nuer	Did not integrate after the 2006 Juba Declaration	Long-standing Differences	Upper Nile
4	Peter Gatdet Yak	Nuer	April 2011	Accusations of corruption and marginalisation	Unity
5	Gatluak Gai	Nuer	After April 2010	Politically motivated	Unity
6	Abdel Bagi Agyii	Dinka	March 2011	Politically motivated; accusations of the marginalisation of the Muslim minority	Northern Bahr el Ghazal
7	David Yau Yau	Murle	April 2010	Politically motivated and linked to internal Murle politics	Jonglei
8	Uluak Oliny	Shilluk	After April 2010	Unknown	Upper Nile

Source: South Sudan: origins and implications of emerging (in) security dynamics-ISS Situation report July, 2011.